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Calendar No. 983

99TH CONGRESS
2D SESSION

S. 2850

To strengthen and improve the enforcement of the laws against illegal drugs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 23 (legislative day, SEPTEMBER 15), 1986

Mr. DOLE (for himself, Mr. THURMOND, Mr. ABDNOR, Mr. BROYHILL, Mr. COCHRAN, Mr. D'AMATO, Mr. DANFORTH, Mr. DENTON, Mr. DOMENICI, Mr. GRAMM, Mr. HATCH, Mrs. HAWKINS, Mr. HEINZ, Mr. LAXALT, Mr. LUGAR, Mr. MATTINGLY, Mr. MCCONNELL, Mr. MURKOWSKI, Mr. NICKLES, Mr. QUAYLE, Mr. ROTH, Mr. SIMPSON, Mr. SPECTER, Mr. STEVENS, Mr. TRIBLE, Mr. WARNER, and Mr. WILSON) introduced the following bill; which was read the first time

SEPTEMBER 24, 1986

Read the second time and placed on the calendar

A BILL

To strengthen and improve the enforcement of the laws against illegal drugs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Drug Enforcement Act of 1986".

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1 # TITLE I—WHITE HOUSE INITIATIVE
2 # AGAINST DRUGS

3 ## Subtitle A—Drug-Free Federal Workplace Act of
4 ## 1986

5 **SEC. 1101. SHORT TITLE.**

6 This subtitle may be cited as the "Drug-Free Federal
7 Workplace Act of 1986".

1 **SEC. 1102. FINDINGS.**

2 The Congress finds and declares that—

3 (1) illegal drug use is having alarming and tragic
4 effects upon a significant proportion of the national
5 work force and results in billions of dollars of lost pro-
6 ductivity each year;

7 (2) employers are concerned with the well-being
8 of their employees, and the need to maintain employee
9 productivity;

10 (3) the Federal Government as the largest em-
11 ployer in the Nation can and should show the way
12 toward achieving drug-free workplaces through a pro-
13 gram designed to get the message to drug users that
14 drug use will not be tolerated in the Federal work-
15 place;

16 (4) drug use by persons responsible for the safe
17 transportation of people and goods has the potential to
18 cause the loss of many lives and millions of dollars of
19 property damage. Any harm created by drug impair-
20 ment can extend far beyond the harm caused to the in-
21 dividual drug user; and

22 (5) employers should not be required to hire an in-
23 dividual who due to use of or addiction to drugs or al-
24 cohol is incapable of performing the job for which he or
25 she is applying.

1 **SEC. 1103. AMENDMENTS TO THE REHABILITATION ACT OF**
2 **1973.**

3 (a) Paragraph (7)(B) of section 7 of the Rehabilitation
4 Act of 1973 is amended by—

5 (1) by striking out "Subject to the second sen-
6 tence of this subparagraph, the" in the first sentence
7 and inserting in lieu thereof "The"; and

8 (2) by striking out the second sentence and insert-
9 ing in lieu thereof the following: "The term 'handi-
10 capped individual' does not include any individual who
11 uses, or is addicted to, illegal drugs, except that an in-
12 dividual who is otherwise handicapped shall not be ex-
13 cluded from the protections of this Act if he also uses
14 or is also addicted to drugs. For purposes of sections
15 503 and 504 of this Act as such sections relate to em-
16 ployment, the term 'handicapped individual' does not
17 include any individual who is an alcoholic whose cur-
18 rent use of alcohol interferes with such an individual's
19 performance of the duties on the job in question or
20 whose employment, by reason of such current alcohol
21 abuse, would constitute a direct threat to property or
22 the safety of others.".

23 (b) Section 7 of such Act is amended by adding at the
24 end thereof the following new paragraph:

25 "(16) The term 'illegal drugs' means controlled sub-
26 stances, as defined by schedules I and II, section 802(6) of

1 title 21, United States Code, the possession of or distribution
2 of which is unlawful under chapter 13 of title 21, United
3 States Code.".

4 **SEC. 1104. PROHIBITED PERSONNEL PRACTICES.**

5 Section 2302(b)(10) of title 5, United States Code, is
6 amended to read as follows:

7 "(10) discriminate for or against any employee or
8 applicant for employment on the basis of conduct which
9 does not adversely affect the performance of the em-
10 ployee or applicant or the performance of others;
11 except that—

12 "(A) nothing in this paragraph shall prohibit
13 an agency from taking into account in determining
14 suitability or fitness any conviction of the employ-
15 ee or applicant for any crime under the laws of
16 any State, of the District of Columbia, or of the
17 United States; and

18 "(B) nothing in this paragraph shall be con-
19 strued to permit or require the continued employ-
20 ment or the employment of an employee or appli-
21 cant who uses a controlled substance (as defined
22 in section 102 of the Controlled Substances Act
23 (84 Stat. 1242; 21 U.S.C. 802)) included in
24 schedule I or II of such Act (84 Stat. 1247; 21
25 U.S.C. 812) the possession or distribution of

1 which is unlawful under title II of the Compre-
2 hensive Drug Abuse Prevention and Control Act
3 of 1970 (84 Stat. 1242; 21 U.S.C. 801); or".

4 **SEC. 1105. EDUCATIONAL PROGRAM FOR FEDERAL EMPLOY-**
5 **EES RELATING TO DRUG AND ALCOHOL ABUSE.**

6 (a) The Director of the Office of Personnel Management
7 shall, in consultation with the Secretary of Health and
8 Human Services, establish a Government-wide education
9 program, using seminars and such other methods as the Di-
10 rector considers appropriate, to carry out the purposes set
11 forth in subsection (b).

12 (b) The program established under this section shall be
13 designed so as to provide information to Federal employees
14 with respect to—

15 (1) the short-term and long-term health hazards
16 associated with alcohol abuse and drug abuse;

17 (2) the symptoms of alcohol abuse and drug abuse;

18 (3) the availability of any prevention, treatment,
19 or rehabilitation programs or services relating to alco-
20 hol abuse or drug abuse, whether provided by the Fed-
21 eral Government or otherwise;

22 (4) confidentiality protections afforded in connec-
23 tion with any prevention, treatment, or rehabilitation
24 programs or services;

1 (5) any penalties provided under law, rule, or reg-
2 ulation, and any administrative actions (permissive or
3 mandatory), relating to the use of alcohol or drugs by a
4 Federal employee or the failure to seek or receive ap-
5 propriate treatment or rehabilitation services; and
6 (6) any other matter which the Director considers.

7 **SEC. 1106. TECHNICAL AND CONFORMING PROVISIONS.**

8 The provisions of this subtitle shall supersede any incon-
9 sistent Federal law, rule, or regulation.

10 Subtitle B—Drug-Free Schools Act of 1986

11 **SEC. 1201. SHORT TITLE.**

12 This subtitle may be cited as the "Drug-Free Schools
13 Act of 1986 (the Zero-Tolerance Act)".

14 **SEC. 1202. FINDINGS.**

15 The Congress finds that:
16 (1) Drug use and alcohol abuse is widespread
17 among American students, not only in secondary
18 schools, but increasingly in elementary schools as well.
19 (2) The use of drugs and the abuse of alcohol by
20 students constitutes a grave threat to their physical
21 and mental well-being and significantly impedes the
22 learning process.
23 (3) The tragic consequences of drug use and alco-
24 hol abuse by students are felt not only by students and
25 their families, but also by their communities and their

1 Nation, which can ill afford to lose their skills, talents,
2 and vitality.
3 (4) Among our cultural institutions, schools, as-
4 sisted by parents and the community, have a special
5 responsibility to assist in combating the scourge of
6 drug use and alcohol abuse by adopting and applying
7 firm but fair policies.
8 (5) Prompt action by our Nation's schools can
9 bring us significantly closer to the goal of a drug-free
10 generation.
11 (6) Educational institutions should establish clear
12 policies to ensure that illegal drug users and alcohol
13 abusers will be held accountable for their actions.

14 **SEC. 1203. PURPOSE.**

15 The purpose of this subtitle is to assist States in their
16 efforts to establish a drug-free learning environment and to
17 prevent drug use and alcohol abuse among students.

18 **SEC. 1204. AUTHORIZATION OF APPROPRIATIONS.**

19 For the purpose of carrying out this subtitle, there are
20 authorized to be appropriated $100,000,000 for each of fiscal
21 years 1987, 1988, 1989, and 1990.

22 **SEC. 1205. RESERVATIONS AND ALLOTMENTS.**

23 (a) The Secretary shall reserve 20 per cent of the
24 amounts appropriated under section 1204 for any fiscal year
25 for national programs under section 1209.

1 (b)(1) From the remainder of the amount appropriated to
2 carry out this subtitle for each fiscal year after amounts are
3 reserved under subsection (a) for such fiscal year, the Secre-
4 tary may reserve up to 1 per cent for allotments to Guam,
5 American Samoa, the Virgin Islands, the Commonwealth of
6 the Northern Mariana Islands, and the Trust Territory of the
7 Pacific Islands.

8 (2) The Secretary shall allot the amounts reserved under
9 paragraph (1) among Guam, American Samoa, the Virgin Is-
10 lands, the Commonwealth of the Northern Mariana Islands,
11 and the Trust Territory of the Pacific Islands, on the basis of
12 need for amounts to carry out the activities described in sec-
13 tion 1207.

14 (c)(1) From the remainder of the amount appropriated to
15 carry out this subtitle for each fiscal year after amounts are
16 reserved under subsections (a) and (b) for such fiscal year, the
17 Secretary shall allot to each State an amount which bears the
18 same ratio to such remainder as the number of children aged
19 five to seventeen, inclusive, in the State bears to the total
20 number of such children in all States. For purposes of this
21 subsection, the number of children aged five to seventeen,
22 inclusive, in a State and in all the States shall be determined
23 by the Secretary on the basis of the most recent available
24 data satisfactory to the Secretary.

1 (2)(A) The Secretary may reallot all or a portion of the
2 State's allotment under paragraph (1) for any fiscal year if
3 the State does not submit a State application under section
4 1206, or otherwise indicates to the Secretary that it does not
5 need or cannot use the full amount of its allotment for that
6 fiscal year. The Secretary may fix one or more dates during a
7 fiscal year upon which to make reallotments.

8 (B) The Secretary may reallot amounts available under
9 subparagraph (A) for a fiscal year on a competitive basis to
10 one or more States that demonstrate a need for additional
11 amounts to carry out the activities described in section 1207.
12 Any funds reallotted to a State under this subparagraph shall
13 be deemed to be part of its allotment under this subtitle for
14 the fiscal year in which the funds are reallotted.

15 (3) For purposes of this subsection, the term "State"
16 means each of the several States, the District of Columbia,
17 and the Commonwealth of Puerto Rico.

18 **SEC. 1206. PAYMENTS UNDER ALLOTMENTS TO STATES.**

19 (a) For each fiscal year, the Secretary shall make pay-
20 ments, as provided by section 6503(a) of title 31, United
21 States Code, to each State from its allotment under section
22 1205 from amounts appropriated for that fiscal year.

23 (b) Any amount paid to a State for a fiscal year and
24 remaining unobligated at the end of such year shall remain

1 available for the next fiscal year to such State for the pur-
2 poses for which it was made.

3 **SEC. 1207. USE AND DISTRIBUTION OF FUNDS.**

4 (a) At least 50 percent of the total amount paid to a
5 State under section 1206 for a fiscal year from its allotment
6 under section 1205 for such fiscal year shall be used by the
7 State educational agency in accordance with subsection (c).

8 (b) After the application of subsection (a), the remainder
9 of the amount paid to a State under section 1206 for a fiscal
10 year from its allotment under section 1205 for a fiscal year
11 shall be used by the chief executive officer of a State for drug
12 abuse and alcohol abuse prevention and education activities
13 primarily directed toward students in elementary, secondary,
14 and postsecondary schools. Such activities may include:

15 (1) Grants to local governments or other public
16 and nonprofit private entities in the State for the im-
17 provement of—

18 (A) local programs for drug abuse and alco-
19 hol abuse prevention, early intervention, rehabili-
20 tation referral, and education which will be con-
21 ducted in elementary, secondary, and postsecond-
22 ary schools, and

23 (B) training programs for teachers, parents,
24 local law enforcement officials, and judges.

1 (2) The development and distribution of education-
2 al materials, including media campaigns, aimed at a
3 drug-free America.
4 (3) Education and primary prevention programs
5 for high risk youth.
6 (4) The procurement and development of curricula
7 and other educational materials.
8 (5) Activities to increase drug abuse and alcohol
9 abuse education and prevention efforts targeted at chil-
10 dren and youth in kindergarten through the twelfth
11 grade.
12 (c)(1) The State educational agency of a State shall use
13 90 percent of the amounts available to such agency under
14 subsection (a) for grants to, and contracts with, local educa-
15 tional agencies in the State.
16 (2) Any amounts available to a State educational agency
17 after the application of paragraph (1) may be used by such
18 agency for drug abuse and alcohol abuse prevention and edu-
19 cation activities primarily directed toward elementary, sec-
20 ondary, and postsecondary schools. Such activities may
21 include—
22 (A) programs for drug abuse and alcohol abuse
23 prevention, early intervention, rehabilitation referral,
24 and education which will be conducted in elementary,
25 secondary, and postsecondary schools;

1 (B) training programs for teachers, parents, local
2 law enforcement officials, and judges; and
3 (C) the activities described in paragraphs (4) and
4 (5) of subsection (b).
5 (3) Any amounts made available to a local educational
6 agency pursuant to a grant or contract under paragraph (1)
7 may be used by such agency for drug abuse and alcohol abuse
8 prevention and education activities primarily directed toward
9 elementary, secondary, and postsecondary schools. Such ac-
10 tivities may include—
11 (A) the activities described in subparagraphs (A)
12 and (B) of paragraph (1) of this subsection and in para-
13 graphs (4) and (5) of subsection (b); and
14 (B) activities to encourage the involvement of par-
15 ents in the fight against drug abuse and alcohol abuse.
16 (4) A State educational agency or a local educational
17 agency shall not use amounts made available to such agency
18 under this subtitle for the activities described in paragraphs
19 (1), (2), and (3) of subsection (b).
20 (d) Any program supported with amounts paid to a
21 State under section 1206 shall, where appropriate, provide
22 information to individuals about local drug abuse and alcohol
23 abuse treatment programs.
24 (e) Any materials produced or distributed with amounts
25 paid to a State under section 1206 shall reflect the message

1 that the use of illegal drugs and the abuse of alcohol is wrong
2 and harmful.

3 **SEC. 1208. STATE APPLICATIONS.**

4 (a) In order to receive an allotment under subsection (b)
5 or (c) of section 1205 for a fiscal year, a State shall submit an
6 application to the Secretary. As part of such application, the
7 chief executive officer of the State shall agree to use the
8 amounts paid to the State under section 1206 in accordance
9 with the requirements of this subtitle.

10 (b) Each application submitted under subsection (a)
11 shall—

12 (1) cover a period of three fiscal years;

13 (2) be submitted at a time, in such manner, and
14 contain such information, as the Secretary may require;
15 and

16 (3) contains assurances that no more than 5 per-
17 cent of the total amount paid to a State under section
18 1206 for a fiscal year will be used for by the State and
19 the State educational agency to pay the costs of ad-
20 ministering programs under this subtitle; and

21 (4) contain assurances that the Federal funds
22 made available under this subtitle for any period will
23 be so used as to supplement and increase the level of
24 State, local, and non-Federal funds that would in the
25 absence of such Federal funds be made available for

1 the programs and activities for which funds are provid-
2 ed under this subtitle and will in no event supplant
3 such State, local, and other non-Federal funds.

4 **SEC. 1209. NATIONAL PROGRAMS.**

5 (a) The Secretary shall use the amount reserved under
6 section 1205(a) for a fiscal year to carry out national pro-
7 grams designed to achieve and maintain a drug-free environ-
8 ment that is conducive to learning in elementary and second-
9 ary schools. The Secretary may carry out such programs di-
10 rectly, or through grants, contracts, or cooperative agree-
11 ments with State or local educational agencies, institutions of
12 higher education, and other public and private agencies, or-
13 ganizations, and institutions. The Secretary shall, when ap-
14 propriate, coordinate activities under this subsection with ac-
15 tivities conducted by the Secretary of Health and Human
16 Services, the Secretary of Labor, the Director of ACTION,
17 and the heads of other appropriate agencies.

18 (b) The Secretary shall use amounts available under this
19 subsection to—

20 (1) collect and disseminate information about drug
21 use and alcohol abuse among students in elementary
22 and secondary schools;

23 (2) develop curricula for schools which warn
24 against the use of drugs and the abuse of alcohol;

1 (3) provide training or technical assistance to
2 States consistent with the purposes of this subtitle;
3 (4) coordinate drug abuse and alcohol abuse edu-
4 cation and prevention efforts with similar efforts by
5 other Federal agencies; and
6 (5) collect data concerning, and evaluate, pro-
7 grams that reduce drug abuse and alcohol abuse among
8 students.

9 **SEC. 1210. DRUG TESTING IN EDUCATIONAL INSTITUTIONS.**

10 (a) Notwithstanding any other provision of law, it shall
11 not be unlawful under Federal statute or regulation for any
12 educational institution—
13 (1) to require as a condition of admission or con-
14 tinued enrollment that students refrain from the use of
15 illegal drugs;
16 (2) to conduct drug testing of its students or appli-
17 cants for admission to determine if such students or ap-
18 plicants use illegal drugs;
19 (3) to refuse enrollment to applicants for admis-
20 sion who use illegal drugs; or
21 (4) to take disciplinary action against students, in-
22 cluding suspension or expulsion, who use illegal drugs
23 whether or not the use occurred at the educational
24 institution.

1 (b) If any State, by law or regulation, prohibits drug
2 testing of the students at a school or applicants for admission
3 to a school to determine if such students or applicants use
4 illegal drugs, the Secretary may withhold payments to a
5 State under section 1206 for a fiscal year until such time as
6 laws or regulations are revised to remove such prohibition.

7 **SEC. 1211. INTERAGENCY COORDINATION.**

8 The Secretary of Health and Human Services, the Sec-
9 retary of Labor, the Secretary of Education, and the Director
10 of ACTION shall each designate an officer or employee of
11 the Departments of Education, Health and Human Services,
12 and Labor, and ACTION, respectively, to coordinate inter-
13 agency drug abuse activities.

14 **SEC. 1212. CONFORMING AMENDMENTS.**

15 Section 583(b) of Education Consolidation and Improve-
16 ment Act (20 U.S.C. 3851(b)) is amended by—

17 (1) inserting "and" at the end of paragraph (2);
18 (2) striking out paragraph (3); and
19 (3) redesignating paragraph (4) as paragraph (3).

20 **SEC. 1213. DEFINITIONS.**

21 (a) The definitions of terms contained in section 595 of
22 the Education Consolidation and Improvement Act shall
23 apply to this subtitle.

24 (b) For purposes of this subtitle, the term "high risk
25 youth" means an individual who has not attained the age of

1 21 years, who is at high risk of becoming, or who has
2 become, a drug abuser or an alcohol abuser, and who—
3 (1) is a victim of physical, sexual, or psychological
4 abuse;
5 (2) has dropped out of school;
6 (3) has become pregnant;
7 (4) is economically disadvantaged;
8 (5) has committed a violent or delinquent act;
9 (6) has experienced mental health problems;
10 (7) has attempted suicide;
11 (8) is disabled by injuries; or
12 (9) is identified as a child of a substance abuser.

13 **Subtitle C—Substance Abuse Services**

14 **SEC. 1301. SHORT TITLE; REFERENCE.**

15 (a) This subtitle may be cited as the "Substance Abuse
16 Services Amendments of 1986".
17 (b) Except as otherwise specifically provided, whenever
18 in this subtitle an amendment or repeal is expressed in terms
19 of an amendment to a section or other provision, the refer-
20 ence shall be considered to be a reference to a section or
21 other provision of the Public Health Service Act.

22 **SEC. 1302. EXTENSION OF ALCOHOL, DRUG, ABUSE, AND**
23 **MENTAL HEALTH BLOCK GRANT.**

24 (a) Section 1911 is amended—
25 (1) by striking out "and" after "1986," and

1 (2) by inserting before the period a comma and
2 "$600,000,000 for fiscal year 1988, $630,000,000 for
3 fiscal year 1989, $660,000,000 for fiscal year 1990,
4 and $695,000,000 for fiscal year 1991.".
5 (b)(1) Title XIX is amended by inserting after section
6 1912 the following new section:
7 "GRANTS TO STATES FOR SUBSTANCE ABUSE TREATMENT
8 PROGRAMS
9 "SEC. 1912A. (a) Of the amount appropriated under
10 section 1911 for a fiscal year, the Secretary shall reserve
11 $100,000,000 for such fiscal year for grants to States which
12 demonstrate need for funds (in addition to the funds allotted
13 to States under section 1913) to conduct substance abuse
14 treatment programs. The Secretary shall use at least 40 per-
15 cent of the amounts reserved under the preceding sentence
16 for any fiscal year for grants to States for substance abuse
17 treatment programs for high risk youth.
18 "(b) For purposes of subsection (a)—
19 "(1) the term 'high risk youth' means an individ-
20 ual who has not attained the age of 21 years, who is
21 at high risk of becoming, or who has become, a drug
22 abuser or an alcohol abuser, and who—
23 "(A) is a victim of physical, sexual, or psy-
24 chological abuse;
25 "(B) has dropped out of school;
26 "(C) has become pregnant;

1 "(D) is economically disadvantaged;

2 "(E) has committed a violent or delinquent

3 act;

4 "(F) has experienced mental health problems;

5 "(G) has attempted suicide;

6 "(H) is disabled by injuries; or

7 "(I) is identified as a child of a substance

8 abuser; and

9 "(2) the term 'substance' means any drug or alco-

10 holic beverage.

11 "(c) No grant may be made by the Secretary under sub-

12 section (a) unless an application therefor has been submitted

13 by a State to, and approved by, the Secretary. Such applica-

14 tion shall be in such form, submitted in such manner, and

15 contain and be accompanied by such information, as the Sec-

16 retary may require.".

17 (2) The heading for section 1912 is amended by adding

18 at the end thereof the following: "FOR TRAINING AND

19 RETRAINING OF MENTAL HEALTH SERVICES

20 WORKERS".

21 **SEC. 1303. ELIMINATION OF CERTAIN BLOCK GRANT EAR-**

22 **MARKS.**

23 (a) Section 1916(c) is amended by striking out para-

24 graphs (7) and (8).

1 (b) The amendment made by subsection (a) shall take
2 effect on October 1, 1987.

3 **SEC. 1304. WITHHOLDING OF BLOCK GRANT FUNDS.**

4 If the possession or distribution of a drug is an offense
5 under the Controlled Substances Act, and if, under the laws
6 of a State the possession or distribution, respectively, of such
7 drug is not a criminal offense, the Secretary of Health and
8 Human Services may withhold the allotment of the State
9 under title XIX of the Public Health Service Act for any
10 fiscal year until the laws of the State are amended to provide
11 that the possession or distribution, respectively, of such drug
12 is a criminal offense.

13 **SEC. 1305. ADVISORY COUNCILS.**

14 (a) Part A of title V is amended by redesignating sec-
15 tions 505 and 506 as sections 506 and 507, respectively, and
16 by inserting after section 504 the following new section:

17 "ADVISORY COUNCILS

18 "SEC. 505. (a)(1) The Secretary shall appoint an adviso-
19 ry council for the National Institute on Alcohol Abuse and
20 Alcoholism, for the National Institute on Drug Abuse, and
21 for the National Institute of Mental Health. Each such advi-
22 sory council shall advise, consult with, and make recommen-
23 dations to the Secretary and the Director of the national re-
24 search institute for which it was appointed on—

1 "(A) matters relating to the activities carried out
2 by and through the Institute and the policies respecting
3 such activities; and
4 "(B) matters relating to activities carried out by
5 the Secretary and the National Institutes respecting
6 the disease, disorder, or other aspect of human health
7 with which the advisory council is concerned.
8 "(2) Each advisory council for a national research insti-
9 tute may recommend to the Secretary acceptance, in accord-
10 ance with section 2101, of conditional gifts for—
11 "(A) study, investigation, or research respecting
12 the diseases, disorders, or other aspect of human health
13 with respect to which the institute was established;
14 "(B) the acquisition of grounds for the institute; or
15 "(C) the construction, equipping, or maintenance
16 of facilities for the institute.
17 "(3) Each advisory council for a national research
18 institute—
19 "(A)(i) may on the basis of the materials provided
20 under section 507(d)(2) respecting research conducted
21 at the institute, make recommendations to the Director
22 of the institute respecting such research;
23 "(ii) shall review applications for grants and coop-
24 erative agreements for research or training and for
25 which advisory council approval is required under sec-

1 tion 507(e)(2), and recommend for approval applica-
2 tions for projects which show promise of making valua-
3 ble contributions to human knowledge; and
4 "(iii) may review any grant, contract, or coopera-
5 tive agreement proposed to be made or entered into by
6 the institute;
7 "(B) may collect, by correspondence or by person-
8 al investigation, information as to studies which are
9 being carried on in the United States or any other
10 country as to the diseases, disorders, or other aspect of
11 human health with respect to which the national re-
12 search institute was established and with the approval
13 of the Director of the institute make available such in-
14 formation through appropriate publications for the ben-
15 efit of public and private health entities and health pro-
16 fessions personnel and scientists and for the informa-
17 tion of the general public; and
18 "(C) may appoint subcommittees and convene
19 workshops and conferences.
20 "(b)(1) Each advisory council shall consist of ex officio
21 members and not more than 12 members appointed by the
22 Secretary.
23 "(2) The ex officio members of an advisory council shall
24 consist of—

1 "(A) the Secretary, the Administrator, the Direc-
2 tor of the national research institute for which the ad-
3 visory council is established, the Chief Medical Direc-
4 tor of the Veterans' Administration, and the Assistant
5 Secretary of Defense for Health Affairs (or the desig-
6 nees of such officers), and
7 "(B) such additional officers or employees of the
8 United States as the Secretary determines necessary
9 for the advisory council to effectively carry out its
10 functions.
11 "(3) The members of an advisory council who are not ex
12 officio members shall be appointed as follows:
13 "(A) Nine of the members shall be appointed by
14 the Secretary from among the leading representatives
15 of the health and scientific disciplines (including public
16 health and the behavioral or social sciences) relevant to
17 the activities of the national research institute for
18 which the advisory council is established.
19 "(B) Three of the members shall be appointed by
20 the Secretary from the general public and shall include
21 leaders in fields of public policy, public relations, law,
22 health policy, economics, and management.
23 "(4) Members of an advisory council who are officers or
24 employees of the United States shall not receive any compen-
25 sation for service on the advisory council. The other members

1 of an advisory council shall receive, for each day (including
2 travel time) they are engaged in the performance of the func-
3 tions of the advisory council, compensation at rates not to
4 exceed the daily equivalent of the annual rate in effect for
5 grade GS–18 of the General Schedule.

6 "(c) The term of office of an appointed member of an
7 advisory council is 4 years, except that any member appoint-
8 ed to fill a vacancy for an unexpired term shall be appointed
9 for the remainder of such term and the Secretary shall make
10 appointments to an advisory council in such manner as to
11 ensure that the terms of the members do not all expire in the
12 same year. A member may serve after the expiration of the
13 member's term until a successor has taken office. A member
14 who has been appointed for a term of 4 years may not be
15 reappointed to an advisory council before 2 years from the
16 date of expiration of such term of office. If a vacancy occurs
17 in the advisory council among the appointed members, the
18 Secretary shall make an appointment to fill the vacancy
19 within 90 days from the date the vacancy occurs.

20 "(d) The chairman of an advisory council shall be select-
21 ed by the Secretary from among the appointed members,
22 except that the Secretary may select the Director of the na-
23 tional research institute for which the advisory council is es-
24 tablished to be the chairman of the advisory council. The
25 term of office of chairman shall be 2 years.

1 "(e) The advisory council shall meet at the call of the
2 chairman or upon the request of the Director of the national
3 research institute for which it was established, but at least 3
4 times each fiscal year. The location of the meetings of each
5 advisory council is subject to the approval of the Director of
6 the national research institute for which the advisory council
7 was established.

8 "(f) The Director of the national research institute for
9 which an advisory council is established shall designate a
10 member of the staff of the institute to serve as the executive
11 secretary of the advisory council. The Director of such insti-
12 tute shall make available to the advisory council such staff,
13 information, and other assistance as it may require to carry
14 out its functions. The Director of such institute shall provide
15 orientation and training for new members of the advisory
16 council to provide them with such information and training as
17 may be appropriate for their effective participation in the
18 functions of the advisory council.".

19 (b) Section 217 is amended—

20 (1) by striking out subsections (a), (b), (c), and (d);

21 (2) by striking out "(e)(1)" and inserting in lieu
22 thereof "(a)";

23 (3) by striking out "(2)" and inserting in lieu
24 thereof "(b)";

1 (4) by striking out "(3)" and inserting in lieu
2 thereof "(c)";
3 (5) by striking out "(4)" and inserting in lieu
4 thereof "(d)"; and
5 (6) by redesignating clauses (A) and (B) of subsec-
6 tion (c) (as redesignated by the amendment made by
7 paragraph (4) of this subsection) as clauses (1) and (2),
8 respectively.

9 **SEC. 1306. PUBLIC HEALTH EMERGENCIES.**

10 Part A of title V (as amended by section 1305 of this
11 Act) is further amended by adding at the end thereof the
12 following:

13 "RESEARCH ON PUBLIC HEALTH EMERGENCIES

14 "SEC. 508. (a) If the Secretary determines, after consul-
15 tation with the Administrator, the Commissioner of Food and
16 Drugs, or the Director of the Centers for Disease Control,
17 that a disease or disorder within the jurisdiction of a national
18 research institute constitutes a public health emergency, the
19 Secretary, acting through the Administrator—
20 "(1) shall expedite the review by advisory councils
21 and by peer review groups of applications for grants
22 for research on such disease or disorder or proposals
23 for contracts for such research;
24 "(2) shall exercise the authority in section 3709 of
25 the Revised Statutes (41 U.S.C. 5) respecting public
26 exigencies to waive the advertising requirements of

1 such section in the case of proposals for contracts for
2 such research;
3 "(3) may provide administrative supplemental in-
4 creases in existing grants and contracts to support new
5 research relevant to such disease or disorder; and
6 "(4) shall disseminate, to health professionals and
7 the public, information on the cause, prevention, and
8 treatment of such disease or disorder that has been de-
9 veloped in research assisted under this section.
10 The amount of an increase in a grant or contract provided
11 under paragraph (3) may not exceed one-half the original
12 amount of the grant or contract.
13 "(b) Not later than 90 days after the end of a fiscal year,
14 the Secretary shall report to the Committee on Energy and
15 Commerce of the House of Representatives and the Commit-
16 tee on Labor and Human Resources of the Senate on actions
17 taken under subsection (a) in such fiscal year.".
18 **SEC. 1307. RESEARCH AUTHORIZATION.**
19 (a) Section 513 is amended to read as follows:
20 "AUTHORIZATIONS OF APPROPRIATIONS
21 "SEC. 513. There are authorized to be appropriated to
22 carry out this subpart $69,000,000 for fiscal year 1987.".
23 (b) Section 517 is amended to read as follows:
24 "AUTHORIZATIONS OF APPROPRIATIONS
25 "SEC. 517. There are authorized to be appropriated to
26 carry out this subpart $129,000,000 for fiscal year 1987.".

1 **SEC. 1308. CHILD ABUSE REPORTING.**

2 (a) Section 523(e) is amended—

3 (1) by redesignating paragraphs (1) and (2) as sub-
4 paragraphs (A) and (B), respectively;

5 (2) by inserting "(1)" before "The"; and

6 (3) by adding at the end thereof the following new
7 paragraph:

8 "(2) The prohibitions of this section do not apply to the
9 reporting under State law of incidents of suspected child
10 abuse and neglect to the appropriate State authorities.".

11 (b) Section 527(e) is amended—

12 (1) by redesignating paragraphs (1) and (2) as sub-
13 paragraphs (A) and (B), respectively;

14 (2) by inserting "(1)" before "The"; and

15 (3) by adding at the end thereof the following new
16 paragraph:

17 "(2) The prohibitions of this section do not apply to the
18 reporting under State law of incidents of suspected child
19 abuse and neglect to the appropriate State authorities.".

20 **SEC. 1309. SUICIDE.**

21 Section 501 is amended by adding at the end thereof the
22 following new subsection:

23 "(i)(1) The Secretary shall—

24 "(A) develop and publish information respecting
25 the causes of suicide among individuals under the age

1 of 21 and the means of preventing suicide among such
2 individuals, and
3 "(B) make such information generally available to
4 the public and health professionals.
5 "(2) By January 1, 1988, and every 3 years thereafter,
6 the Secretary shall report to the Congress on the activities
7 undertaken under paragraph (1) during the period reported on
8 and shall include in each such report an assessment of the
9 effectiveness of such activities.".

10 **SEC. 1310. PREPARATION OF PUBLIC SERVICE ANNOUNCE-**
11 **MENTS.**

12 (a) Section 503 is amended by adding at the end thereof
13 the following new subsection:
14 "(e)(1) The Secretary, acting through the Institute and
15 in consultation with the Director of the Office on Smoking
16 and Health, shall prepare for distribution announcements for
17 television to educate the public, particularly women, concern-
18 ing the dangers resulting from cigarette smoking by women.
19 In the preparation of such announcements, the Secretary
20 shall, to the extent feasible, use appropriate private organiza-
21 tions and business concerns.
22 "(2) Of the amount appropriated under section 517 for
23 each of the fiscal years 1987, 1988, and 1989, $250,000
24 shall be available to carry out paragraph (1) for such fiscal
25 year.".

1 (b) Section 517 (as amended by section 1307(b) of this
2 Act) is further amended by inserting "section 503(e) and"
3 before "this subpart".

4 **SEC. 1311. NATIONAL PLAN TO COMBAT DRUG ABUSE.**

5 By October 1, 1988, the Secretary of Health and
6 Human Services shall prepare and transmit to the Congress a
7 report which sets forth a comprehensive national plan to
8 combat drug abuse. The report shall include—

9 (1) a description of a model program for activities
10 to be conducted by the States to combat drug abuse;

11 (2) an analysis of the social and economic costs of
12 drug abuse to the Nation, including amounts expended
13 by public agencies and private organizations—

14 (A) for the treatment of individuals for drug
15 abuse, including a division of such amounts among
16 the types of settings in which such treatment is
17 provided;

18 (B) for treatment of individuals for health
19 problems resulting from drug abuse; and

20 (C) to meet other costs resulting from drug
21 abuse, such as costs resulting from lost employee
22 productivity;

23 (3) an assessment of current treatment and reha-
24 bilitation needs and the current integration and financ-

1 ing of drug treatment and rehabilitation into the Na-
2 tion's health care system;
3 (4) an assessment of personnel needs in the fields
4 of research, treatment, rehabilitation, and prevention;
5 (5) a statement of specific goals and objectives to
6 meet the Nation's current treatment, rehabilitation, and
7 personnel needs in the area of drug abuse;
8 (6) estimates of public and private resources
9 needed to accomplish the goals and objectives referred
10 to in paragraph (5) and estimates of savings in re-
11 sources that can be anticipated from the achievement
12 of such goals and objectives.

13 **SEC. 1312. CLEARINGHOUSE.**

14 The Secretary of Health and Human Services, through
15 the Administrator of the Alcohol, Drug Abuse, and Mental
16 Health Administration, shall establish a clearinghouse for al-
17 cohol and drug abuse information to assure the widespread
18 dissemination of such information to States, political subdivi-
19 sions, school systems, and the general public. The clearing-
20 house shall—
21 (1) disseminate publications by the National Insti-
22 tute on Alcohol Abuse and Alcoholism, the National
23 Institute on Drug Abuse, and the Department of Edu-
24 cation concerning alcohol abuse and drug abuse;

1 (2) disseminate accurate information concerning
2 the health effects of alcohol abuse and drug abuse;
3 (3) collect and disseminate information concerning
4 successful alcohol abuse and drug abuse education and
5 prevention curricula; and
6 (4) collect and disseminate information on effective
7 and ineffective school-based alcohol abuse and drug
8 abuse education and prevention programs, particularly
9 effective programs which stress that the use of illegal
10 drugs and the abuse of alcohol is wrong and harmful.

11 **SEC. 1313. STUDY ON ALKYL NITRATES.**

12 The Secretary of Health and Human Services, through
13 the Commissioner of Food and Drugs, should conduct a study
14 on alkyl nitrates and report to the appropriate committees of
15 the Congress recommendations concerning whether alkyl ni-
16 trates should be treated as a drug under the Food, Drug, and
17 Cosmetic Act.

18 Subtitle D—Drug Interdiction and International
19 Cooperation

20 PART I—MANSFIELD AMENDMENT

21 **SEC. 1411. FOREIGN POLICE ARREST ACTIONS.**

22 Section 481(c) of the Foreign Assistance Act of 1961 is
23 amended—
24 (1) in paragraph (1), by striking out in the first
25 sentence "engage or participate in any direct police

1 arrest action in any foreign country" and inserting in
2 lieu thereof "directly make an arrest in any foreign
3 country as part of any foreign police action"; and
4 (2) by amending paragraph (2) to read as follows:
5 "(2) Nothing in paragraph (1) prevents such employee
6 or officer—
7 "(A) from being present at the scene of an arrest
8 or otherwise assisting foreign officers in making an
9 arrest; or
10 "(B) from taking direct action to protect life or
11 safety if exigent circumstances arise in the course of an
12 arrest which are unanticipated and which pose an im-
13 mediate threat to United States or foreign officers or to
14 members of the public.".

15 **PART II—NARCOTICS TRAFFICKERS**
16 **DEPORTATION ACT**

17 **SEC. 1421. AMENDMENT TO THE IMMIGRATION AND NATION-**
18 **ALITY ACT.**

19 (a) Section 212(a)(23) of the Immigration and National-
20 ity Act (8 U.S.C. 1182(a)(23)) is amended—
21 (1) by striking out "any law or regulation relating
22 to" and all that follows through "addiction-sustaining
23 opiate" and inserting in lieu thereof "any law or regu-
24 lation of a State, the United States, or a foreign coun-
25 try relating to a controlled substance (as defined in sec-

1 tion 102 of the Controlled Substances Act (21 U.S.C.
2 802))"; and
3 (2) by striking out "any of the aforementioned
4 drugs" and inserting in lieu thereof "any such con-
5 trolled substance".
6 (b) Section 241(a)(11) of such Act (8 U.S.C. 125l(a)(11))
7 is amended by striking out "any law or regulation relating
8 to" and all that follows through "addition-sustaining opiate"
9 and inserting in lieu thereof "any law or regulation or a
10 State, the United States, or a foreign country relating to a
11 controlled substance (as defined in section 102 of the Con-
12 trolled Substances Act (21 U.S.C. 802))".
13 (c) The amendments made by this section shall apply to
14 convictions occurring before, on, or after the date of the en-
15 actment of this part, and the amendments made by subsection
16 (a) shall apply to aliens entering the United States after the
17 date of the enactment of this part.

18 PART III—CUSTOMS ENFORCEMENT

19 SEC. 1431. SHORT TITLE.

20 This subtitle may be cited as the "Customs Enforce-
21 ment Act of 1986".

22 Subpart A—Tariff Act Amendments

23 SEC. 1432. CONTROLLED SUBSTANCES DEFINED.

24 Section 401 of the Tariff Act of 1930 (19 U.S.C. 1401)
25 is amended—

1 (1) by striking out the period in subsection (c) and
2 inserting in lieu thereof "and monetary instruments as
3 defined in section 5312 of title 31, United States
4 Code.",
5 (2) by striking out the following: "For the pur-
6 poses of sections 432, 433, 434, 448, 585, and 586 of
7 this Act, any vessel which has visited any hovering
8 vessel shall be deemed to arrive or have arrived, as the
9 case may be, from a foreign port or place.",
10 (3) by striking out "The term" in subsection (k)
11 and inserting in lieu thereof "(1) The term",
12 (4) by adding at the end of subsection (k) the fol-
13 lowing new paragraph:
14 "(2) For the purposes of sections 432, 433, 434, 448,
15 585, and 586, any vessel which—
16 "(A) has visited any hovering vessel,
17 "(B) has received merchandise while in the cus-
18 toms waters beyond the territorial sea, or
19 "(C) has received merchandise on the high seas,
20 shall be deemed to arrive or have arrived, as the case may
21 be, from a foreign port or place.", and
22 (5) by adding at the end thereof the following:
23 "(m) CONTROLLED SUBSTANCE.—The term 'controlled
24 substance' has the meaning given to such term by section

1 102(6) of the Controlled Substances Act (21 U.S.C.
2 802(6)).".

3 **SEC. 1433. REPORT OF ARRIVAL OF VESSELS, VEHICLES, AND**
4 **AIRCRAFT.**

5 Section 433 of the Tariff Act of 1930 (19 U.S.C. 1433)
6 is amended to read as follows:

7 **"SEC. 433. REPORT OF ARRIVAL OF VESSELS, VEHICLES, AND**
8 **AIRCRAFT.**

9 "(a) VESSEL ARRIVAL.—

10 "(1) Immediately upon the arrival at any port or
11 place within the United States or the Virgin Islands
12 of—

13 "(A) any vessel from a foreign port or place;

14 "(B) any foreign vessel from a domestic port;
15 or

16 "(C) any vessel of the United States carrying
17 bonded merchandise, or foreign merchandise for
18 which entry has not been made;

19 the master of the vessel shall report the arrival at the
20 nearest customs facility or such other place as the Sec-
21 retary may prescribe by regulations.

22 "(2) The Secretary may by regulation—

23 "(A) prescribe the manner in which arrivals
24 are to be reported under paragraph (1); and

1 "(B) extend the time in which reports of ar-
2 rival must be made, but not beyond 24 hours after
3 arrival.
4 "(b) VEHICLE ARRIVAL.—
5 "(1) Vehicles may arrive in the United States
6 only at border crossing points designated by the
7 Secretary.
8 "(2) Except as otherwise authorized by the Secre-
9 tary, immediately upon the arrival of any vehicle in the
10 United States at a border crossing point, the person in
11 charge of the vehicle shall—
12 "(A) report the arrival; and
13 "(B) present the vehicle, and all persons and
14 merchandise (including baggage) on board, for in-
15 spection;
16 to the customs officer at the customs facility designated
17 for that crossing point.
18 "(c) AIRCRAFT ARRIVAL.—The pilot of any aircraft ar-
19 riving in the United States from any foreign airport or place
20 shall comply with such advance notification, arrival report-
21 ing, and landing requirements as the Secretary may by regu-
22 lation prescribe.
23 "(d) PRESENTATION OF DOCUMENTATION.—The
24 master, person in charge of a vehicle, or aircraft pilot shall,

1 present to customs officers such documents, papers, or mani-
2 fests as the Secretary may by regulation prescribe.".

3 **SEC. 1434. PENALTIES FOR ARRIVAL, REPORTING, ENTRY, AND**
4 **DEPARTURE VIOLATIONS.**

5 (a) Section 436 of the Tariff Act of 1930 (19 U.S.C.
6 1436) is amended to read as follows:

7 **"SEC. 436. PENALTIES FOR VIOLATIONS OF THE ARRIVAL, RE-**
8 **PORTING, AND ENTRY REQUIREMENTS.**

9 "(a) UNLAWFUL ACTS.—It is unlawful—
10 "(1) to fail to comply with subsection (a), (b), or
11 (c) of section 433;
12 "(2) to present any forged, altered, or false docu-
13 ment or paper to a customs officer under section 433(d)
14 without revealing the facts;
15 "(3) to fail to make entry as required by section
16 434, 435, or 644 of this Act or section 1109 of the
17 Federal Aviation Act (49 U.S.C. App. 1509); or
18 "(4) to fail to comply with, or violate, any regula-
19 tion prescribed under any section referred to in any of
20 the preceding paragraphs.

21 "(b) CIVIL PENALTY.—Any master, person in charge of
22 a vehicle, or aircraft pilot who violates any provision of sub-
23 section (a) is liable for a civil penalty of $5,000 for the first
24 violation, and $10,000 for each subsequent violation, and any

1 conveyance used in connection with any such violation is sub-
2 ject to seizure and forfeiture.

3 "(c) CRIMINAL PENALTY.—Any master, person in
4 charge of a vehicle, or aircraft pilot who willfully commits
5 any violation enumerated in subsection (a) shall be liable for
6 an additional fine of not more than $2,000 or imprisonment
7 for not more than 1 year, or both, and if the conveyance has,
8 or is discovered to have had, on board—

9 "(1) any merchandise (other than sea stores or the
10 equivalent for conveyances other than vessels) the im-
11 portation of which into the United States is prohibited,
12 or

13 "(2) any controlled substances, spirits, wines, or
14 other alcoholic liquors,

15 such person shall be liable for an additional fine of not more
16 than $10,000 and imprisonment for not more than 5 years, or
17 both.

18 "(d) ADDITIONAL CIVIL PENALTY.—If any controlled
19 substance is imported or brought into the United States in or
20 aboard a conveyance which was not properly reported or en-
21 tered, the master, person in charge of a vehicle, or aircraft
22 pilot shall be liable for an additional penalty equal to the
23 value of the merchandise and the merchandise shall be seized
24 and forfeited unless properly entered by the importer or con-
25 signee. If the merchandise consists of the controlled sub-

1 stances listed in section 584 of this Act, the master, person in
2 charge of a vehicle, or pilot shall be liable for the penalties
3 prescribed in that section.".

4 (b) Section 585 of the Tariff Act of 1930 (19 U.S.C.
5 1585) is amended—

6 (1) by striking out "shall be liable to a penalty of
7 $5,000," after "vessel"; and

8 (2) by striking out "$500" and inserting in lieu
9 thereof "$5,000 for the first violation, and $10,000 for
10 each subsequent violation,".

11 **SEC. 1435. PENALTY FOR UNLOADING OF PASSENGERS.**

12 Section 454 of the Tariff Act of 1930 (19 U.S.C. 1454)
13 is amended by striking out "$500 for each" and inserting in
14 lieu thereof "$1,000 for the first passenger and $500 for each
15 additional".

16 **SEC. 1436. REPORTING REQUIREMENTS FOR INDIVIDUALS.**

17 (a) Section 459 of the Tariff Act of 1930 (19 U.S.C.
18 1459) is amended to read as follows:

19 **"SEC. 459. REPORTING REQUIREMENTS FOR INDIVIDUALS.**

20 "(a) INDIVIDUALS ARRIVING OTHER THAN BY CON-
21 VEYANCE.—Except as otherwise authorized by the Secre-
22 tary, individuals arriving in the United States other than by
23 vessel, vehicle, or aircraft shall—

24 "(1) enter the United States only at a border
25 crossing point designated by the Secretary; and

1 "(2) immediately—

2 "(A) report the arrival, and

3 "(B) present themselves, and all articles ac-

4 companying them, for inspection;

5 to the customs officer at the customs facility designated

6 for that crossing point.

7 "(b) INDIVIDUALS ARRIVING BY REPORTED CONVEY-

8 ANCE.—Except as otherwise authorized by the Secretary,

9 passengers and crew members aboard a conveyance the ar-

10 rival in the United States of which was made or reported in

11 accordance with section 433 or 644 of this Act or section

12 1109 of the Federal Aviation Act of 1958, or in accordance

13 with applicable regulations, shall remain aboard the convey-

14 ance until authorized to depart the conveyance by the appro-

15 priate customs officer. Upon departing the conveyance, the

16 passengers and crew members shall immediately report to the

17 designated customs facility with all articles accompanying

18 them.

19 "(c) INDIVIDUALS ARRIVING BY UNREPORTED CON-

20 VEYANCE.—Individuals aboard a conveyance the arrival in

21 the United States of which was not made or reported in ac-

22 cordance with the laws or regulations referred to in subsec-

23 tion (b) shall immediately notify a customs officer and report

24 their arrival, together with appropriate information concern-

1 ing the conveyance on or in which they arrived, and present
2 their property for customs examination and inspection.
3 "(d) DEPARTURE FROM DESIGNATED CUSTOMS FA-
4 CILITIES.—Any person required to report to a designated
5 customs facility under subsection (a), (b), or (c) may not
6 depart that facility until authorized to do so by the appropri-
7 ate customs officer.
8 "(e) UNLAWFUL ACTS.—It is unlawful—
9 "(1) to fail to comply with subsection (a), (b), or
10 (c);
11 "(2) to present any forged, altered, or false docu-
12 ments or paper to a customs officer under subsection
13 (a), (b), or (c) without revealing the facts;
14 "(3) to violate subsection (d); or
15 "(4) to fail to comply with, or violate, any regula-
16 tion prescribed to carry out subsection (a), (b), (c), or
17 (d).
18 "(f) CIVIL PENALTY.—Any individual who violates any
19 provision of subsection (e) is liable for a civil penalty of
20 $1,000 for the first violation, and $2,000 for each subsequent
21 violation.
22 "(g) CRIMINAL PENALTY.—In addition to being liable
23 for a civil penalty under subsection (f), any individual who
24 intentionally commits any violation described in subsection (e)

1 is, upon conviction, liable for a fine of not more than $5,000,
2 or imprisonment for not more than 1 year, or both.".
3 (b) Section 460 of the Tariff Act of 1930 (19 U.S.C.
4 1460) is repealed.

5 **SEC. 1437. PENALTY FOR FAILURE TO DECLARE.**

6 Section 497 of the Tariff Act of 1930 (19 U.S.C. 1497)
7 is amended to read as follows:

8 **"SEC. 497. PENALTIES FOR FAILURE TO DECLARE.**

9 "(a) IN GENERAL.—
10 "(1) Any article which—
11 "(A) is not included in the declaration and
12 entry as made, and
13 "(B) is not mentioned before examination of
14 the baggage begins—
15 "(i) in writing by such person, if written
16 declaration and entry was required, or
17 "(ii) orally, if written declaration and
18 entry was not required,
19 shall be subject to forfeiture and such person shall be liable
20 for a penalty determined under paragraph (2) with respect to
21 such article.
22 "(2) The amount of the penalty imposed under
23 paragraph (1) with respect to any article is equal to—
24 "(A) if the article is a controlled substance,
25 200 percent of the value of the article, and

"(B) if the article is not a controlled substance, the value of the article.

"(b) VALUE OF CONTROLLED SUBSTANCES.—

"(1) Notwithstanding any other provision of this Act, the value of any controlled substance shall, for purposes of this section, be equal to the amount determined by the Secretary, in consultation with the Attorney General of the United States, to be equal to the price at which such controlled substance is likely to be illegally sold to the consumer of such controlled substance.

"(2) The Secretary and the Attorney General of the United States shall establish a method of determining the price at which each controlled substance is likely to be illegally sold to the consumer of such controlled substance.".

SEC. 1438. FALSE MANIFESTS; LACK OF MANIFESTS.

Section 584 of the Tariff Act of 1930 (19 U.S.C. 1584) is amended—

(1) by striking out "$500" each place it appears and inserting in lieu thereof "$1,000",

(2) by striking out "$50" in subsection (a)(2) and inserting in lieu thereof "$1,000",

(3) by striking out "$25" in subsection (a)(2) and inserting in lieu thereof "$500", and

1 (4) by striking out "$10" in subsection (a)(2) and
2 inserting in lieu thereof "$200".

3 **SEC. 1439. UNLAWFUL UNLOADING OF MERCHANDISE.**

4 Section 586 of the Tariff Act of 1930 (19 U.S.C. 1586)
5 is amended—
6 (1) by striking out "$1,000" each place it appears
7 and inserting in lieu thereof "$10,000",
8 (2) by striking out "two years" in subsection (e)
9 and inserting in lieu thereof "15 years", and
10 (3) by striking out "within one league of the
11 coast" in subsection (e) and inserting in lieu thereof
12 "within customs waters".

13 **SEC. 1440. AVIATION SMUGGLING.**

14 The Tariff Act of 1930 is amended by inserting after
15 section 589 the following new section:

16 **"SEC. 590. AVIATION SMUGGLING.**

17 "(a) IN GENERAL.—It shall be unlawful for the pilot of
18 any aircraft to transport, or for any person on board any
19 aircraft to possess, controlled substances knowing or intend-
20 ing that the controlled substances will be introduced into the
21 United States unlawfully.
22 "(b) SEA TRANSFERS.—It shall be unlawful for any
23 person to transfer controlled substances between an aircraft
24 and a vessel on the high seas or in the customs waters of the

1 United States if such person has not been authorized by the
2 Secretary to make such transfer and—
3 "(1) either—
4 "(A) the aircraft is owned by a citizen of the
5 United States or is registered in the United
6 States, or
7 "(B) the vessel is a vessel of the United
8 States (within the meaning of section 3(b) of the
9 Anti-Smuggling Act (19 U.S.C. 1703(b)), or
10 "(2) regardless of the nationality of the vessel or
11 aircraft, such transfer is made under circumstances in-
12 dicating the intent to make it possible for such con-
13 trolled substances, or any part thereof, to be introduced
14 into the United States unlawfully.
15 "(c) PENALTIES.—
16 "(1) Any person who violates any provision of this
17 section shall be civilly liable for a fine equal to twice
18 the value of the controlled substance involved but not
19 less than $10,000 and, in addition to such civil penal-
20 ty, shall be liable for a fine of $250,000 or imprison-
21 ment for a period of 20 years, or both.
22 "(2) For purposes of this subsection, the value of
23 any controlled substance shall be determined in accord-
24 ance with section 497(b).

1 "(d) SEIZURE AND FORFEITURE.—Any vessel or air-
2 craft used in connection with, or in aiding or facilitating, any
3 of the unlawful acts described in this section (whether or not
4 any person is charged in connection with such acts) shall be
5 seized and civilly forfeited in accordance with the customs
6 laws.

7 "(e) INTENT OF TRANSFER OF CONTROLLED SUB-
8 STANCES.—For purposes of this Act, any one of the follow-
9 ing acts, when performed within 250 miles of the territorial
10 sea of the United States shall be prima facie evidence that
11 the transportation or possession of controlled substances was
12 unlawful and shall be presumed to constitute circumstances
13 indicating that the intent of the transfer is to make it possible
14 for such controlled substances, or any part thereof, to be in-
15 troduced into the United States unlawfully, and for purposes
16 of subsection (d) or section 596, shall be prima facie evidence
17 that an aircraft or vessel was used in connection with, or to
18 aid or facilitate, a violation of this section:

19 "(1) the operation of an aircraft or a vessel with-
20 out lights during such times as lights are required to be
21 displayed under applicable law;

22 "(2) the presence on an aircraft of an auxiliary
23 fuel tank which is not installed in accordance with ap-
24 plicable law;

25 "(3) the failure to correctly identify—

"(A) the vessel by name and the country of registration, or

"(B) the aircraft by registration number and country of registration,

when requested to do so by a customs officer or other government authority;

"(4) the external display of false registration numbers, false country of registration, or, in the case of a vessel, false name;

"(5) the presence on board of unmanifested merchandise, the importation of which is prohibited or restricted;

"(6) the presence on board of controlled substances which are not manifested or which are not accompanied by the permits or licenses required under the Single Convention on Narcotic Drugs or any other international treaty;

"(7) the presence of any compartment or equipment which is built or fitted out for smuggling; or

"(8) the failure of a vessel to stop when hailed by a customs officer or other government authority.".

SEC. 1441. SEIZURE OF CONVEYANCES.

Section 594 of the Tariff Act of 1930 (19 U.S.C. 1594) is amended to read as follows:

1 "SEC. 594. SEIZURE OF CONVEYANCES.

2 "(a) IN GENERAL.—Whenever—

3 "(1) any vessel, vehicle, or aircraft, or

4 "(2) the owner or operator, or the master, pilot,
5 conductor, driver, or other person in charge of a
6 vessel, vehicle, or aircraft,

7 is subject to a penalty for violation of the customs laws, the
8 conveyance involved shall be held for the payment of such
9 penalty and may be seized and forfeited and sold in accord-
10 ance with the customs laws. The proceeds of sale, if any, in
11 excess of the assessed penalty and expenses of seizing, main-
12 taining, and selling the property shall be held for the account
13 of any interested party.

14 "(b) EXCEPTIONS.—No conveyance used by any person
15 as a common carrier in the transaction of business as a
16 common carrier is subject to seizure or forfeiture under the
17 customs laws for violations relating to merchandise
18 contained—

19 "(1) in baggage belonging to and accompanying a
20 passenger being lawfully transported on such convey-
21 ance; or

22 "(2) in the cargo of the conveyance if the cargo is
23 listed on the manifest and marks, numbers, weights
24 and quantities of the outer packages or containers
25 agree with the manifest;

1 unless the owner or operator, or the master, pilot, conductor,
2 driver or other person in charge participated in, or had
3 knowledge of, the violation, or was grossly negligent in pre-
4 venting or discovering the violation.

5 "(c) CONTROLLED SUBSTANCES ON CONVEYANCE.—If
6 any controlled substances are found to be, or to have been—

7 "(1) on board a conveyance used as a common
8 carrier in the transaction of business as a common car-
9 rier in one or more packages or containers—

10 "(A) that are not manifested (or not shown
11 on bills of lading or airway bills); or

12 "(B) whose marks, numbers, weight or quan-
13 tities disagree with the manifest (or with the bills
14 of lading or airway bills); or

15 "(2) concealed in or on such a conveyance, but
16 not in the cargo;

17 the conveyance may be seized, and after investigation, for-
18 feited unless it appears to the satisfaction of the Secretary
19 that neither the owner or operator, master, pilot, nor any
20 other employee responsible for maintaining and insuring the
21 accuracy of the cargo manifest knew, or by the exercise of
22 the highest degree of care and diligence could have known,
23 that such controlled substances were on board.

24 "(d) DEFINITIONS.—For purposes of this section—

25 "(1) The term 'owner or operator' includes—

1 "(A) a lessee or person operating a convey-
2 ance under a rental agreement or charter party;
3 "(B) the officers and directors of a corpora-
4 tion;
5 "(C) station managers and similar super-
6 visory ground personnel employed by airlines;
7 "(D) one or more partners of a partnership;
8 "(E) representatives of the owner or operator
9 in charge of the passenger or cargo operations at
10 a particular location; and
11 "(F) and other persons with similar responsi-
12 bilities.
13 "(2) The term 'master' and similar terms relating
14 to the person in charge of a conveyance includes the
15 purser or other person on the conveyance who is re-
16 sponsible for maintaining records relating to the cargo
17 transported in the conveyance.".
18 **SEC. 1442. SEARCHES AND SEIZURES.**
19 Subsection (a) of section 595 of the Tariff Act of 1930
20 (19 U.S.C. 1595) is amended to read as follows:
21 "(a)(1) If any officer or person authorized to make
22 searches and seizures shall have cause to suspect the pres-
23 ence of—

1 "(A) any merchandise upon which the duties have
2 not been paid or which has been otherwise brought
3 into the United States contrary to law,
4 "(B) any controlled substance which is subject to
5 forfeiture under any provision of law enforced or ad-
6 ministered by the United States Customs Service, or
7 "(C) any documents, containers, wrappings, or
8 other articles which are evidence of violations of the
9 Controlled Substances Import and Export Act,
10 in any dwelling house, store, or other building or place, such
11 officer or person may apply, under oath, to any justice of the
12 peace, to any municipal, county, State, or Federal judge, or
13 to any Federal magistrate for a warrant and shall thereupon
14 be entitled to a warrant to enter such dwelling house in the
15 daytime only, or such store or other building or place at night
16 or by day, and to search for and seize such merchandise or
17 other article named in such warrant.
18 "(2) If any house, store, or other building or place is
19 located upon or within ten feet of the boundary line between
20 the United States and a foreign country and any merchandise
21 or other article subject to forfeiture is found in such house,
22 store, or other building or place, the portion of such house,
23 store, or other building or place that is within the United
24 States may be taken down or removed.".

1 **SEC. 1443. FORFEITURES.**

2 Section 596 of the Tariff Act of 1930 (19 U.S.C.
3 1595a) is amended—

4 (1) by striking out "in the proviso to section 594"
5 and inserting in lieu thereof "in subsection (b) or (c) of
6 section 594",

7 (2) by adding at the end thereof the following new
8 subsection:

9 "(c) Any controlled substance that is or has been intro-
10 duced, or attempted to be introduced, into the United States
11 contrary to law shall be seized and forfeited.".

12 **SEC. 1444. PROCEEDS OF FORFEITED PROPERTY.**

13 Section 613 of the Tariff Act of 1930 (19 U.S.C. 1613)
14 is amended by adding at the end thereof the following new
15 subsections:

16 "(c) TREATMENT OF DEPOSITS.—If property is seized
17 by the Secretary under a law enforced or administered by the
18 United States Customs Service, or otherwise acquired under
19 section 605 of this Act, and relief from the forfeiture is grant-
20 ed by the Secretary upon terms requiring the deposit or re-
21 tention of a monetary amount in lieu of the forfeiture, the
22 amount recovered shall be treated in the same manner as the
23 proceeds of sale of a forfeited item.

24 "(d) EXPENSES.—In any judicial or administrative pro-
25 ceeding to forfeit property under any law enforced or admin-
26 istered by the United States Customs Service or the Coast

1 Guard, the seizure, storage, and other expenses related to the
2 forfeiture that are incurred by the United States Customs
3 Service or the Coast Guard after the seizure, but before the
4 institution of, or during, the proceedings, shall be a priority
5 claim in the same manner as the court costs and the expenses
6 of the Federal marshal.''.

7 **SEC. 1445. COMPENSATION TO INFORMERS.**

8 Section 619 of the Tariff Act of 1930 (19 U.S.C. 1619)
9 is amended to read as follows:

10 **''SEC. 619. AWARD OF COMPENSATION TO INFORMERS.**

11 ''(a) IN GENERAL.—

12 ''(1) If any person who is not an employee or offi-
13 cer of the United States—

14 ''(A) detects and seizes any vessel, vehicle,
15 aircraft, merchandise, or baggage subject to sei-
16 zure and forfeiture under the customs laws or the
17 navigation laws and reports such detection and
18 seizure to a customs officer, or

19 ''(B) furnishes to a United States attorney,
20 the Secretary of the Treasury, or any customs of-
21 ficer original information concerning—

22 ''(i) any fraud upon the customs reve-
23 nue, or

24 ''(ii) any violation of the customs laws
25 or the navigation laws which is being, or has

1 been, perpetrated or contemplated by any
2 other person, and
3 "(2) such detection and seizure or such informa-
4 tion leads to a recovery of—
5 "(A) any duties withheld, or
6 "(B) any fine, penalty, or forfeiture of prop-
7 erty incurred,
8 the Secretary may award and pay such person an
9 amount that does not exceed 25 percent of the net
10 amount so recovered.
11 "(b) FORFEITED PROPERTY NOT SOLD.—If—
12 "(1) any vessel, vehicle, aircraft, merchandise, or
13 baggage is forfeited to the United States and is there-
14 after, in lieu of sale—
15 "(A) destroyed under the customs or naviga-
16 tion laws, or
17 "(B) delivered to any governmental agency
18 for official use, and
19 "(2) any person would be eligible to receive an
20 award under subsection (a) but for the lack of sale of
21 such forfeited property,
22 the Secretary may award and pay such person an amount
23 that does not exceed 25 percent of the appraised value of
24 such forfeited property.

1 "(c) DOLLAR LIMITATION.—The amount awarded and
2 paid to any person under this section shall not exceed
3 $250,000 for any case.

4 "(d) SOURCE OF PAYMENT.—Any amount paid under
5 this section shall be paid out of appropriations available for
6 the collection of the customs revenue.

7 "(e) RECOVERY OF BAIL BOND.—For purposes of this
8 section, an amount recovered under a bail bond shall be
9 deemed a recovery of a fine incurred.

10 "(f) CONTROLLED SUBSTANCES.—For purposes of this
11 section, the value of a controlled substance shall be deter-
12 mined in accordance with section 497(b).".

13 **SEC. 1446. FOREIGN LANDING CERTIFICATES.**

14 Section 622 of the Tariff Act of 1930 (19 U.S.C. 1622)
15 is amended by striking out the period at the end thereof and
16 inserting in lieu thereof the following: ", or to comply with
17 international obligations.".

18 **SEC. 1447. EXCHANGE OF INFORMATION.**

19 The Tariff Act of 1930 is amended by inserting after
20 section 627 the following new section:

21 **"SEC. 628. EXCHANGE OF INFORMATION.**

22 "The Secretary of the Treasury may prescribe regula-
23 tions authorizing customs officers to exchange information or
24 documents with foreign customs and law enforcement agen-

1 cies if the Secretary reasonably believes the exchange of in-
2 formation is necessary to—
3 "(1) insure compliance with any law related to
4 controlled substances that is enforced or administered
5 by the United States Customs Service;
6 "(2) administer or enforce multilateral or bilateral
7 agreements to which the United States is a party;
8 "(3) assist in investigative, judicial and quasi-judi-
9 cial proceedings in the United States; or
10 "(4) assist a foreign customs or law enforcement
11 agency in taking any action comparable to any of those
12 described in paragraph (1), (2), or (3), or in relation to
13 any proceeding in a foreign country.".

14 **SEC. 1448. INSPECTIONS AND PRECLEARANCE IN FOREIGN**
15 **COUNTRIES.**

16 Part V of title IV of the Tariff Act of 1930 is amended
17 by adding at the end thereof the following new section:

18 **"SEC. 629. INSPECTIONS AND PRECLEARANCE IN FOREIGN**
19 **COUNTRIES.**

20 "(a) IN GENERAL.—When authorized by treaty or ex-
21 ecutive agreement, the Secretary may station customs offi-
22 cers in foreign countries for the purpose of examining persons
23 and merchandise prior to their arrival in the United States.
24 "(b) FUNCTIONS AND DUTIES.—Customs officers sta-
25 tioned in a foreign country under subsection (a) may exercise

1 such functions and perform such duties (including inspections,
2 searches, seizures and arrests) as may be permitted by the
3 treaty, agreement or law of the country in which they are
4 stationed.

5 "(c) COMPLIANCE.—The Secretary may by regulation
6 require compliance with the customs laws of the United
7 States in a foreign country and, in such a case the customs
8 laws and other civil and criminal laws of the United States
9 relating to the importation of merchandise, filing of false
10 statements, and the unlawful removal of merchandise from
11 customs custody shall apply in the same manner as if the
12 foreign station were a port of entry within the customs terri-
13 tory of the United States.

14 "(d) SEIZURES.—When authorized by treaty, agree-
15 ment or foreign law, merchandise which is subject to seizure
16 or forfeiture under United States law may be seized in a for-
17 eign country and transported under customs custody to the
18 customs territory of the United States to be proceeded
19 against under the customs laws.

20 "(e) STATIONING OF FOREIGN CUSTOMS OFFICERS IN
21 THE UNITED STATES.—The Secretary of State, in coordina-
22 tion with the Secretary, may enter into agreements with any
23 foreign country authorizing the stationing in the United
24 States of customs officials of that country (if similar privileges
25 are extended by that country to United States officials) for

1 the purpose of insuring that persons and merchandise going
2 directly to that country from the United States comply with
3 the customs and other laws of that country governing the
4 importation of merchandise. Any foreign customs official sta-
5 tioned in the United States under this subsection may exer-
6 cise such functions and perform such duties as United States
7 officials may be authorized to perform in that foreign country
8 under reciprocal agreement.

9 "(f) APPLICATION OF CERTAIN LAWS.—When cus-
10 toms officials of a foreign country are stationed in the United
11 States in accordance with subsection (e), and if similar provi-
12 sions are applied to United States officials stationed in that
13 country—

14 "(1) the provisions of sections 111 and 1114 of
15 title 18, United States Code, shall apply as if the for-
16 eign officials were designated in those sections;

17 "(2) any person who in any matter before a for-
18 eign customs official stationed in the United States
19 knowingly and willfully falsifies, conceals, or covers up
20 by any trick, scheme, or device a material fact, or
21 makes any false, fictitious or fraudulent statements or
22 representations, or makes or uses any false writing or
23 document knowing the same to contain any false, ficti-
24 tious or fraudulent statement or entry, shall be liable

1 for a fine of not more than $10,000, or imprisonment
2 for not more than 5 years, or both.".

3 **SEC. 1449. COMMERCIAL COVER.**

4 Part V of title IV of the Tariff Act of 1930 is amended
5 by adding at the end thereof the following new section:

6 **"SEC. 630. AUTHORITY TO CONDUCT COMMERCIAL COVER.**

7 "(a) IN GENERAL.—The Commissioner of Customs
8 may establish and conduct commercial entities such as corpo-
9 rations, partnerships, sole proprietaries, and other business
10 entities as commercial covers to support investigative activi-
11 ties of the United States Customs Service. Such commercial
12 entities may be established only upon written certification by
13 the Commissioner of Customs or a delegate of the Commis-
14 sioner of Customs that commercial cover is necessary to con-
15 duct authorized investigative activities.

16 "(b) ESTABLISHMENT AND OPERATION.—The estab-
17 lishment and operation of commercial entities pursuant to this
18 section shall be in accordance with prevailing commercial
19 practices so long as such practices are not inconsistent with
20 the purposes of commercial cover. Laws applicable to Feder-
21 al appropriations, Federal property management, Federal ac-
22 quisitions, Federal employment and Government corporations
23 shall not apply to the establishment and operation of com-
24 mercial covers upon the written certification by the Commis-
25 sioner of Customs, or any delegate of the Commissioner of

1 Customs, that the application of such laws would compromise
2 a commercial cover.
3 "(c) WITHDRAWAL AND DEPOSIT OF FUNDS.—The
4 Commissioner of Customs, or any delegate of the Commis-
5 sioner of Customs, is authorized to deposit and withdraw in
6 banks and other financial institutions—
7 "(1) funds appropriated for the United States Cus-
8 toms Service that are used to conduct commercial
9 cover, and
10 "(2) funds generated by the business entities au-
11 thorized by this section.
12 "(d) USE OF FUNDS GENERATED BY COMMERCIAL
13 COVER.—
14 "(1) Funds generated by any business entities au-
15 thorized by this section may be used to offset necessary
16 and reasonable expenses incurred by the commercial
17 cover. As soon as practicable, funds generated by a
18 commercial cover that are no longer necessary for the
19 conduct of that commercial cover shall be deposited in
20 the Treasury of the United States as miscellaneous
21 receipts.
22 "(2) Upon the liquidation, dissolution, sale, or other final
23 disposition of a commercial cover established and conducted
24 under this section and after the payment of all obligations
25 incurred with respect to such commercial cover, any remain-

1 ing funds described in paragraph (1) or (2) of subsection (c)
2 shall be deposited in the Treasury of the United States as
3 miscellaneous receipts.".

4 **Subpart B—Miscellaneous Provisions**

5 **SEC. 1451. RECREATIONAL VESSELS.**

6 Subsection (b) of section 12109 of title 46, United
7 States Code, is amended by adding at the end thereof the
8 following new sentence: "Such vessel must, however, comply
9 with all customs requirements for reporting arrival pursuant
10 to section 433 of the Tariff Act of 1930 (19 U.S.C. 1433)
11 and all persons aboard such vessel shall be subject to all ap-
12 plicable customs regulations.".

13 **SEC. 1452. PROVISION OF ASSISTANCE TO CUSTOMS**
14 **OFFICERS.**

15 Section 3071 of the Revised Statutes (19 U.S.C. 507) is
16 amended to read as follows:

17 "(a) Every customs officer shall—

18 "(1) upon being questioned at the time of execut-
19 ing any of the powers conferred upon him, make
20 known his character as an officer of the Federal Gov-
21 ernment, and

22 "(2) have the authority to demand the assistance
23 of any person in making any arrest, search, or seizure
24 authorized by any law enforced or administered by cus-
25 toms officers, if such assistance may be necessary.

1 If such person shall, without reasonable excuse, neglect or
2 refuse to assist the customs officer upon proper demand, such
3 person shall be guilty of a misdemeanor and subject to a fine
4 of not more than $1,000.

5 "(b) Any person other than an officer or employee of the
6 United States who renders assistance in good faith upon the
7 request of a customs officer shall not be held liable for any
8 civil damages as a result of the rendering of such assistance if
9 the assisting person acts as an ordinary, reasonably prudent
10 person would have acted under the same or similar
11 circumstances.".

12 **SEC. 1453. REPORTS ON EXPORTS AND IMPORTS OF MONE-**
13 **TARY INSTRUMENTS.**

14 Section 5316(a)(2) of title 31, United States Code is
15 amended by striking out "$5,000" and inserting in lieu
16 thereof "$10,000".

17 **SEC. 1454. SMUGGLING INVESTIGATIONS.**

18 Section 3 of the Act of August 11, 1955 (69 Stat. 684;
19 21 U.S.C. 969), is amended by inserting "and pay the costs
20 of the proceeding" after "investigation" in the second
21 sentence.

Subpart C—Amendments to the Controlled Substances Import and Export Act

SEC. 1458. UNLAWFUL IMPORTATION.

(a) Section 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 959) is amended—

(1) by inserting "Possession," in the heading,

(2) by striking out "It shall" and inserting in lieu thereof "(a) It shall",

(3) by striking out "This section" and inserting in lieu thereof "(c) This section",

(4) by inserting "or into waters within a distance of 12 miles of the coast of the United States" after "United States" each place it appears in subsection (a), and

(5) by inserting after subsection (a) the following new subsection:

"(b) It shall be unlawful for any United States citizen on board any aircraft, or any person on board an aircraft owned by a United States citizen or registered in the United States to—

"(1) manufacture or distribute a controlled substance, or

"(2) possess a controlled substance with intent to distribute.".

1 (b) The table of contents of the Comprehensive Drug
2 Abuse Prevention and Control Act of 1970 is amended by
3 striking out "Manufacture" in the item relating to section
4 1009 and inserting in lieu thereof "Possession,
5 manufacture".

6 **Subpart D—Amendments to the Criminal Code**

7 **SEC. 1459. OPERATION OF AIRCRAFT WITHOUT LIGHTS; ILLE-**
8 **GAL FUEL TANK INSTALLATIONS.**

9 (a) Chapter 2 of title 18, United States Code, is amend-
10 ed by adding at the end thereof the following new sections:
11 **"§ 36. Operation of aircraft without lights**
12 "Whoever knowingly and willfully operates an aircraft
13 in violation of any rule, regulation or requirement issued by
14 the Administrator of the Federal Aviation Administration
15 with respect to the display of navigation and/or anticollision
16 lights shall be subject to a fine of not more than $5,000 or
17 imprisonment not exceeding two years, or both.
18 **"§ 37. Illegal fuel installations aboard aircraft**
19 "(a) It shall be unlawful for any person to knowingly
20 make a fuel tank or fuel system installation aboard an air-
21 craft, or to operate any aircraft with a fuel tank or fuel
22 system installation aboard, unless such tank or installation is
23 in accordance with all applicable rules, regulations or re-
24 quirements of the Administrator of the Federal Aviation Ad-
25 ministration, including inspection and approval. Any person

1 violating this section shall be subject to a fine of not more
2 than $5,000 or imprisonment not exceeding two years, or
3 both. Unless exempted by the Administrator of the Federal
4 Aviation Administration, by regulation, authorization from
5 the Federal Aviation Administration to have an auxiliary fuel
6 tank or system installation or modification shall be aboard the
7 aircraft whenever it is operated and such authorization must
8 be shown to any Federal, State, or local law enforcement
9 officer upon request. Failure to have such authorization
10 aboard shall create a presumption that the installation is un-
11 lawful.

12 "(b) Any unlawful fuel tank or fuel system installation
13 and the aircraft in which it is installed shall be subject to
14 seizure and civil forfeiture. The provisions of law relating to
15 the seizure, summary and judicial forfeiture, and condemna-
16 tion of property for violation of the customs laws; the disposi-
17 tion of such property or the proceeds from the sale thereof;
18 the remission or mitigation of such forfeitures; and the com-
19 promise of claims and the award of compensation to inform-
20 ers in respect of such forfeitures shall apply to seizures and
21 forfeitures incurred, or alleged to have been incurred, under
22 the provisions of this section, insofar as applicable and not
23 inconsistent with the provisions hereof: *Provided,* That such
24 duties as are imposed upon customs officers or any other
25 person with respect to the seizure and forfeiture of property

1 under the customs law may also be performed with respect to
2 seizures and forfeitures of property under this section by such
3 officers, agents, or other persons as may be authorized or
4 designated for that purpose by the Attorney General.".

5 (b) The table of sections for chapter 2 of title 18 of the
6 United States Code is amended by adding at the end thereof
7 the following:

"36. Operation of aircraft without lights."
"37. Illegal fuel installation aboard aircraft.".

8 Subpart E—Denial of Trade Benefits to
9 Uncooperative Drug Source Nations

10 SEC. 1460. SHORT TITLE.

11 This subpart may be cited as the "Narcotics Control
12 Trade Act".

13 SEC. 1461. DETERMINATIONS REGARDING UNCOOPERATIVE
14 DRUG SOURCE NATIONS.

15 (a) The President, after taking into account the factors
16 set forth in subsection (b), shall determine if any foreign
17 country, during any fiscal year commencing after September
18 30, 1986—

19 (1) was a direct or indirect source of one or more
20 illicit narcotic and psychotropic drugs and other con-
21 trolled substances that is significantly affecting the
22 United States; and

23 (2) did not cooperate with the United States Gov-
24 ernment in preventing narcotic and psychotropic drugs

1 and other controlled substances from significantly af-
2 fecting the United States.
3 (b) For purposes of making a determination under sub-
4 section (a) regarding a foreign country, the President shall
5 take into account the capabilities, effort, and progress of that
6 country in—
7 (1) limiting legal narcotic crop production to levels
8 required for legal purposes;
9 (2) licensing legal narcotic crop production and ef-
10 fectively controlling it to prevent significant diversion
11 to the illicit traffic;
12 (3) limiting the legal manufacture of narcotic and
13 psychotropic drugs and other controlled substances to
14 levels required for medical purposes and effectively
15 controlled manufacture to prevent significant diversion
16 to the illicit traffic;
17 (4) detecting and eradicating the illicit cultivation
18 of narcotic crops, and
19 (5) suppressing the illicit manufacture, processing,
20 and traffic of narcotic and psychotropic drugs, under
21 the control of the Single Convention of Narcotic Drugs
22 of 1961 as amended by the 1972 Amending Protocol
23 or the Controlled Substances Act of 1970 or the Con-
24 vention on Psychotropic Substances of 1971.

1 (c) The President shall submit to each House of the
2 Congress the name of each foreign country regarding which
3 an affirmative determination is made under subsection (a).
4 The submission must be made on the first day on which both
5 Houses are in session after the close of the fiscal year with
6 respect to which the determination is made.

7 **SEC. 1462. TARIFF TREATMENT OF PRODUCTS OF UNCOOP-**
8 **ERATIVE DRUG SOURCE NATIONS.**

9 (a) The President shall, with respect to each foreign
10 country regarding which an affirmative determination is
11 made under section 1461(a) and to the extent considered nec-
12 essary by the President to achieve the purposes of this sub-
13 part, deny to any or all of the products of that country tariff
14 treatment under title V of the Trade Act of 1974 (the Gener-
15 alized System of Preferences), the Caribbean Basin Econom-
16 ic Recovery Act, or any other law providing preferential
17 tariff treatment.

18 (b) The action taken by the President under subsection
19 (a) shall apply to the products of a foreign country that are
20 entered, or withdrawn from warehouse for consumption,
21 during the period that—

22 (1) begins on October 1 of the fiscal year occur-
23 ring after the fiscal year with respect to which an af-
24 firmative determination regarding that country was
25 made under section 1461(a); and

1 (2) ends on the day on which the determination is
2 cancelled under section 1464.

3 **SEC. 1463. PROGRESS REPORTS.**

4 The President shall include as a part of the annual
5 report required under section 481(e)(1) of the Foreign Assist-
6 ance Act of 1961 (22 U.S.C. 2291(e)(1)) an evaluation of
7 progress that each major drug source nation has made during
8 the reporting period in achieving the objectives set forth in
9 section 1461(b).

10 **SEC. 1464. CANCELLATION OF DETERMINATIONS.**

11 If the President considers that a foreign country regard-
12 ing which an affirmative determination was made under sec-
13 tion 1461(a) has made significant progress, and will continue
14 to make progress, in remedying those acts, programs, or poli-
15 cies on which that determination was based, the President
16 may cancel the determination. The President must immedi-
17 ately notify each House of Congress of each cancellation
18 made under this section.

19 **SEC. 1465. DEFINITION.**

20 For purposes of this subpart, the term "narcotic and
21 psychotropic drugs and other controlled substances" has the
22 meaning given to that term by section 481(i)(3) of the For-
23 eign Assistance Act of 1961 (22 U.S.C. 2291(i)(3)).

1 SEC. 1466. CONFORMING AMENDMENTS.

2 (a) Section 502(b) of the Trade Act of 1974 (19 U.S.C.
3 2462(b)) is amended—

4 (1) by striking out paragraph (5);

5 (2) by redesignating paragraphs (6), (7), and (8) as
6 paragraphs (5), (6), and (7), respectively; and

7 (3) by striking out "(5)," in the last sentence.

8 (b) Section 212(b) of the Caribbean Basin Economic Re-
9 covery Act (19 U.S.C. 2702(b)) is amended—

10 (1) by inserting "and" after the semicolon at the
11 end of paragraph (5);

12 (2) by striking out paragraph (6); and

13 (3) by redesignating paragraph (7) as paragraph
14 (6).

15 **[TITLE I—SUBTITLE D—PART IV]**

16 **PART IV—MARITIME DRUG LAW ENFORCE-**
17 **MENT PROSECUTION IMPROVEMENTS**
18 **ACT OF 1986**

19 SEC. 1471. SHORT TITLE.

20 This part may be cited as the "Maritime Drug Law En-
21 forcement Prosecution Improvements Act of 1986".

22 SEC. 1472. IMPROVEMENT OF PUBLIC LAW 96-350.

23 The Act entitled "An Act to facilitate increased en-
24 forcement by the Coast Guard of laws relating to the impor-
25 tation of controlled substances, and for other purposes", ap-
26 proved September 15, 1980 (Public Law 96-350; 94 Stat.

1 1159), is amended by striking all after the enacting clause
2 and inserting in lieu thereof the following:
3 "That Congress finds and declares that trafficking in
4 controlled substances aboard vessels is a serious international
5 problem and is universally condemned. Moreover, such traf-
6 ficking presents a specific threat to the security and societal
7 well-being of the United States.
8 "SEC. 2. (a) It is unlawful for any person on board a
9 vessel of the United States, or on board a vessel subject to
10 the jurisdiction of the United States, to knowingly or inten-
11 tionally manufacture or distribute, or to possess with intent
12 to manufacture or distribute, a controlled substance.
13 "(b) A vessel of the United States means—
14 "(1) a vessel documented under chapter 121 of
15 title 46, or a vessel numbered as provided in chapter
16 123 of that title;
17 "(2) a vessel owned in whole or part by—
18 "(A) the United States or a territory, com-
19 monwealth, or possession of the United States;
20 "(B) a State or political subdivision thereof;
21 "(C) a citizen or national of the United
22 States; or
23 "(D) a corporation created under the laws of
24 the United States or any State, the District of

1 Columbia, or any territory, commonwealth, or
2 possession of the United States;
3 unless the vessel has been granted the nationality of a
4 foreign nation in accordance with article 5 of the 1958
5 Convention on the High Seas; and
6 "(3) a vessel that was once documented under the
7 laws of the United States and, in violation of the laws
8 of the United States, was either sold to a person not a
9 citizen of the United States or placed under foreign
10 registry or a foreign flag, whether or not the vessel has
11 been granted the nationality of a foreign nation.
12 "(c) For purposes of this section, 'vessel subject to the
13 jurisdiction of the United States' includes—
14 "(1) a vessel without nationality. A vessel without
15 nationality includes:
16 "(A) a vessel aboard which the master or
17 person in charge makes a claim of registry, which
18 claim is denied by the claimed flag state. Such
19 claim may be verified or denied by radio, tele-
20 phone, or similar oral or electronic means. The
21 denial of the claim of registry by the claimed flag
22 state may be proved by certification of the Secre-
23 tary of State or his designee;
24 "(B) any vessel aboard which the master or
25 person in charge fails, upon request of an officer

1 of the United States empowered to enforce appli-
2 cable provisions of United States law, to make a
3 claim of nationality or registry for that vessel. For
4 purposes of this section, a claim of nationality or
5 registry only includes:
6 "(i) possession on board the vessel and
7 production of documents evidencing the ves-
8 sel's nationality in accordance with article 5
9 of the 1958 Convention on the High Seas;
10 "(ii) flying its flag state's ensign or flag;
11 or
12 "(iii) a verbal claim of nationality or
13 registry by the master or person in charge of
14 the vessel.
15 "(2) a vessel assimilated to a vessel without na-
16 tionality, in accordance with paragraph (2) of article 6
17 of the Convention on the High Seas;
18 "(3) a vessel registered in a foreign country where
19 the flag state has consented or waived objection to the
20 enforcement of United States law by the United States.
21 Such consent or waiver by the flag state may be ob-
22 tained by radio, telephone, or similar oral or electronic
23 means, and may be proved by certification of the Sec-
24 retary of State or his designee;

1 "(4) a vessel located within the customs waters of
2 the United States;
3 "(5) a vessel located in the territorial waters of
4 another state, where the state consents to the enforce-
5 ment of United States law by the United States. Such
6 consent may be obtained by radio, telephone, or similar
7 oral or electronic means, and may be proved by certifi-
8 cation of the Secretary of State or his designee.
9 "(d) A claim of failure to comply with international law
10 in the enforcement of this Act may be invoked solely by a
11 foreign state, and a failure to comply with international law
12 shall not divest a court of jurisdiction or otherwise constitute
13 a defense to any proceeding under this Act.
14 "(e) This section does not apply to a common or con-
15 tract carrier, or an employee thereof, who possesses or dis-
16 tributes a controlled substance in the lawful and usual course
17 of the carrier's business or to a public vessel of the United
18 States, or any person on board such a vessel who possesses
19 or distributes a controlled substance in the lawful course of
20 his duties, if the controlled substance is a part of the cargo
21 entered in the vessel's manifest and is intended to be lawfully
22 imported into the country of destination for scientific, medi-
23 cal, or other legitimate purposes. It shall not be necessary for
24 the United States to negative the exception set forth in this
25 subsection in any complaint, information, indictment, or other

1 pleading or in any trial or other proceeding. The burden of
2 going forward with the evidence with respect to this excep-
3 tion is upon the person claiming its benefit.

4 "(f) Any person who violates this section shall be tried
5 in the United States district court at the point of entry where
6 that person enters the United States, or in the United States
7 District Court of the District of Columbia.

8 "(g)(1) Any person who commits an offense defined in
9 this section shall be punished in accordance with the penal-
10 ties set forth in section 1010 of the Comprehensive Drug
11 Abuse Prevention and Control Act of 1970 (21 U.S.C 801 et
12 seq.).

13 "(2) Notwithstanding paragraph (1) of this subsection,
14 any person convicted of an offense under this Act shall be
15 punished in accordance with the penalties set forth in section
16 1012 of the Comprehensive Drug Abuse Prevention and
17 Control Act of 1970 (21 U.S.C. 801 et seq.) if such offense is
18 a second or subsequent offense as defined in section 1012(b)
19 of that Act.

20 "(h) This section is intended to reach acts of possession,
21 manufacture, or distribution committed outside the territorial
22 jurisdiction of the United States.

23 "(i) The definitions in the Comprehensive Drug Abuse
24 Prevention and Control Act of 1970 (21 U.S.C. 801 et seq.)
25 apply to terms used in this Act.

1 "(j) Any person who attempts or conspires to commit
2 any offense defined in this Act is punishable by imprisonment
3 or fine or both which may not exceed the maximum punish-
4 ment prescribed for the offense, the commission of which was
5 the object of the attempt or conspiracy.

6 "SEC. 3. Any property described in section 511(a) of the
7 Comprehensive Drug Abuse Prevention and Control Act of
8 1970 (21 U.S.C. 801 et seq.) that is used or intended for use
9 to commit, or to facilitate the commission of, an offense under
10 this Act shall be subject to seizure and forfeiture in the same
11 manner as similar property seized or forfeited under section
12 511 of the Comprehensive Drug Abuse Prevention and Con-
13 trol Act of 1970 (21 U.S.C. 801 et seq.).".

14 **Subtitle E—Anti-Drug Enforcement**

15 **PART I—DRUG PENALTIES ENHANCEMENT**
16 **ACT OF 1986**

17 **SEC. 1511. SHORT TITLE.**

18 This part may be cited as the "Drug Penalties En-
19 hancement Act of 1986".

20 **SEC. 1512. CONTROLLED SUBSTANCES ACT PENALTIES.**

21 Subsections (b)(1)(A) and (b)(1)(B) of section 401 of the
22 Controlled Substances Act (21 U.S.C. 841(b)(1) (A) and (B))
23 are amended to read as follows:

24 "(1)(A) In the case of a violation of subsection (a) of this
25 section involving—

1 "(i) 100 grams or more of a mixture or substance
2 containing a detectable amount of heroin;
3 "(ii) 500 grams or more of a mixture or substance
4 containing a detectable amount of—
5 "(I) coca leaves, except coca leaves and ex-
6 tracts of coca leaves from which cocaine, ecgo-
7 nine, and derivatives of ecgonine or their salts
8 have been removed;
9 "(II) cocaine, its salts, optical and geometric
10 isomers, and salts of isomers;
11 "(III) ecgonine, its derivatives, their salts,
12 isomers, and salts of isomers; or
13 "(IV) any compound, mixture, or preparation
14 which contains any quantity of any of the sub-
15 stances referred to in subclauses (I) through (III);
16 "(iii) 25 grams or more of a mixture or substance
17 described in clause (ii) which contains cocaine base;
18 "(iv) 10 grams or more of phencyclidine (PCP) or
19 100 grams or more of a mixture or substances contain-
20 ing a detectable amount to phencyclidine (PCP);
21 "(v) 1 gram or more of a mixture or substance
22 containing a detectable amount of lysergic acid diethy-
23 lamide (LSD);
24 "(vi) 40 grams or more of a mixture or substance
25 containing a detectable amount of fentanyl or 10 grams

1 or more of a mixture or substance containing a detect-
2 able amount of any analog of fentanyl; or
3 "(vii) 500 kilograms or more of a mixture or sub-
4 stance containing a detectable amount of marihuana,
5 such person shall be sentenced to a term of imprisonment
6 which may not be less than 5 years and not more than 40
7 years and if death results from the use of such substance shall
8 be not less than 20 years or more than life, a fine not to
9 exceed the greater of that authorized in accordance with the
10 provisions of title 18, United States Code, or $2,000,000 if
11 the defendant is an individual or $5,000,000 if the defendant
12 is other than an individual, or both. If any person commits
13 such a violation after one or more prior convictions for an
14 offense punishable under this paragraph, or for a felony under
15 any other provision of this title or title III or other law of a
16 State, the United States, or a foreign country relating to nar-
17 cotic drugs, marihuana, or depressant or stimulant sub-
18 stances, have become final, such person shall be sentenced to
19 a term of imprisonment which may not be less than 10 years
20 and not more than life imprisonment and if death results from
21 the use of such substance shall be sentenced to life imprison-
22 ment, a fine not to exceed the greater of twice that author-
23 ized in accordance with the provisions of title 18, United
24 States Code, or $4,000,000 if the defendant is an individual
25 or $10,000,000 if the defendant is other than an individual,

1 or both. Any sentence under this subparagraph shall, in the
2 absence of such a prior conviction, impose a special parole
3 term of at least 4 years in addition to such term of imprison-
4 ment and shall, if there was such a prior conviction, impose a
5 special parole term of at least 8 years in addition to such
6 term of imprisonment. Notwithstanding the prior sentence
7 and notwithstanding any other provision of law, the court
8 shall not place on probation or suspend the sentence of any
9 person sentenced under this subparagraph nor shall the term
10 of imprisonment imposed under this subparagraph run con-
11 currently with any other term of imprisonment under this
12 subparagraph or under any other provision of law. No person
13 sentenced under this subparagraph shall be eligible for parole
14 during the term of imprisonment imposed therein.
15 "(B) In the case of a controlled substance in schedule I
16 or II, except as provided in subparagraphs (A) and (C), such
17 person shall be sentenced to a term of imprisonment of not
18 more than 20 years and if death results from the use of such
19 substance shall be sentenced to a term of imprisonment of not
20 less than 20 years or more than life, a fine not to exceed the
21 greater of that authorized in accordance with the provisions
22 of title 18, United States Code, or $1,000,000 if the defend-
23 ant is an individual or $5,000,000 if the defendant is other
24 than an individual, or both. If any person commits such a
25 violation after one or more prior convictions for an offense

1 punishable under this paragraph, or for a felony under any
2 other provision of this title or title III or other law of a State,
3 the United States or a foreign country relating to narcotic
4 drugs, marihuana, or depressant or stimulant substances,
5 have become final, such person shall be sentenced to a term
6 of imprisonment of not more than 30 years and if death re-
7 sults from the use of such substance shall be sentenced to life
8 imprisonment, a fine not to exceed the greater of twice that
9 authorized in accordance with the provisions of title 18,
10 United States Code, or $2,000,000 if the defendant is an
11 individual or $10,000,000 if the defendant is other than an
12 individual, or both. Any sentence imposing a term of impris-
13 onment under this subparagraph shall, in the absence of such
14 a prior conviction, impose a special parole term of at least 3
15 years in addition to such term of imprisonment and shall, if
16 there was such a prior conviction, impose a special parole
17 term of at least 6 years in addition to such term of imprison-
18 ment. Notwithstanding the preceding sentence and notwith-
19 standing any other provision of law, the court shall not place
20 on probation or suspend the sentence of any person sentenced
21 under the provisions of this subparagraph which provides for
22 a mandatory term of imprisonment if death results, nor shall
23 such a term of imprisonment run concurrently with any other
24 term of imprisonment under this subparagraph or under any

1 other provision of law, nor shall a person so sentenced be
2 eligible for parole during the term of such a sentence.".

3 **SEC. 1513. OTHER AMENDMENTS TO THE CONTROLLED SUB-**
4 **STANCES ACT.**

5 Section 401 of the Controlled Substances Act (21
6 U.S.C. 841) is further amended as follows:

7 (1)(A) In subsection (b), paragraph (1)(C) is
8 amended by striking out "a fine of not more than
9 $50,000" and inserting in lieu thereof "a fine not to
10 exceed the greater of that authorized in accordance
11 with the provisions of title 18, United States Code, or
12 $250,000 if the defendant is an individual or
13 $1,000,000 if the defendant is other than an individ-
14 ual", and by striking out "a fine of not more than
15 $100,000" and inserting in lieu thereof "a fine not to
16 exceed the greater of twice that authorized in accord-
17 ance with the provisions of title 18 or $500,000 if the
18 defendant is an individual or $2,000,000 if the defend-
19 ant is other than an individual".

20 (B) In subsection (b), paragraph (1)(C) is further
21 amended by inserting "except in the case of 100 mari-
22 huana plants or more regardless of weight," after
23 "marihuana," the first place it appears.

24 (2) In subsection (b), paragraph (2) is amended by
25 striking out "a fine of not more than $25,000" and in-

1 serting in lieu thereof "a fine not to exceed the greater
2 of that authorized in accordance with the provisions of
3 title 18, United States Code, or $250,000 if the de-
4 fendant is an individual or $1,000,000 if the defendant
5 is other than an individual", and by striking out "a fine
6 of not more than $50,000" and inserting in lieu thereof
7 "a fine not to exceed the greater of twice that author-
8 ized in accordance with the provisions of title 18,
9 United States Code, or $500,000 if the defendant is an
10 individual or $2,000,000 if the defendant is other than
11 an individual".

12 (3) In subsection (b), paragraph (3) is amended by
13 striking out "a fine of not more than $10,000" and in-
14 serting in lieu thereof "a fine not to exceed the greater
15 of that authorized in accordance with the provisions of
16 title 18, United States Code, or $100,000 if the de-
17 fendant is an individual or $250,000 if the defendant is
18 other than an individual", and by striking out "a fine
19 of not more than $20,000" and inserting in lieu thereof
20 "a fine not to exceed the greater of twice that author-
21 ized in accordance with the provisions of title 18,
22 United States Code, or $200,000 if the defendant is an
23 individual or $500,000 if the defendant is other than
24 an individual".

1 (4) In subsection (b), paragraph (5) is amended to
2 read as follows:
3 "(5) Any person who violates subsection (a) of this sec-
4 tion by cultivating a controlled substance on Federal property
5 shall be imprisoned as provided in this subsection and shall be
6 fined any amount not to exceed—
7 "(A) the amount authorized in accordance with
8 this section;
9 "(B) the amount authorized in accordance with
10 the provisions of title 18, United States Code;
11 "(C) $500,000 if the defendant is an individual; or
12 "(D) $1,000,000 if the defendant is other than an
13 individual;
14 or both.".
15 (5) Subsection (d) is amended by striking out "a
16 fine of not more than $15,000" and inserting in lieu
17 thereof "a fine not to exceed the greater of that au-
18 thorized in accordance with the provisions of title 18,
19 United States Code, or $250,000 if the defendant is an
20 individual or $1,000,000 if the defendant is other than
21 an individual".
22 **SEC. 1514. AMENDMENT TO TITLE 18 OF THE UNITED STATES**
23 **CODE.**
24 (a) Section 3553 of title 18, United States Code, is
25 amended by adding the following at the end thereof:

1 "(e) LIMITED AUTHORITY TO IMPOSE A SENTENCE
2 BELOW A STATUTORY MINIMUM.—Upon motion of the
3 Government, the court shall have the authority to impose a
4 sentence below a level established by statute as minimum
5 sentence so as to reflect a defendant's substantial assistance
6 in the investigation or prosecution of another person who has
7 committed an offense. Such sentence shall be imposed in ac-
8 cordance with the guidelines and policy statements issued by
9 the Sentencing Commission pursuant to section 994 of title
10 28, United States Code.".
11 (b) The amendment made by this section shall take
12 effect on the date of the taking effect of section 3553 of title
13 18, United States Code.

14 **SEC. 1515. AMENDMENT TO TITLE 28 OF THE UNITED STATES**
15 **CODE.**

16 Section 994 of title 28 of the United States Code is
17 amended by—
18 (1) inserting the following after subsection (m):
19 "(n) The Commission shall assure that the guidelines
20 reflect the general appropriateness of imposing a lower sen-
21 tence than would otherwise be imposed, including a sentence
22 that is lower than that established by statute as minimum
23 sentence, to take into account a defendant's substantial as-
24 sistance in the investigation or prosecution of another person
25 who has committed an offense."; and

1 (2) redesignating subsections (n), (o), (p), (q), (r),
2 (s), (t), (u), (v), and (w) as subsections (o), (p), (q), (r),
3 (s), (t), (u), (v), (w), and (x), respectively.

4 **SEC. 1516. AMENDMENT TO THE FEDERAL RULES OF CRIMI-**
5 **NAL PROCEDURE.**

6 (a) Rule 35(b) of the Federal Rules of Criminal Proce-
7 dure is amended by striking out "to the extent" and all that
8 follows through the end and inserting in lieu thereof the fol-
9 lowing: "in accordance with the guidelines and policy state-
10 ments issued by the Sentencing Commission pursuant to sec-
11 tion 994 of title 28, United States Code. The court's author-
12 ity to lower a sentence under this subdivision includes the
13 authority to lower such sentence to a level below that estab-
14 lished by statute as a minimum sentence.".

15 (b) The amendment made by this section shall take
16 effect on the date of the taking effect of rule 35(b) of the
17 Federal Rules of Criminal Procedure, as amended by section
18 215(b) of the Comprehensive Crime Control Act of 1984.

19 **SEC. 1517. ELIMINATION OF SPECIAL PAROLE TERMS.**

20 (a) The Controlled Substances Act and the Controlled
21 Substances Import and Export Act are amended by striking
22 out "special parole term" wherever it appears and inserting
23 "term of supervised release" in lieu thereof.

1 (b) The amendments made by this section shall take
2 effect on the date of the taking effect of section 3583 of title
3 18, United States Code.

4 **SEC. 1518. AMENDMENT TO THE COMPREHENSIVE CRIME CON-**
5 **TROL ACT OF 1984.**

6 (a) Subsection (a) of section 224 of the Comprehensive
7 Crime Control Act of 1984 is amended—
8 (1) by inserting "and" after the semicolon in para-
9 graph (4); and
10 (2) by striking out paragraphs (1), (2), (3), and (5)
11 and redesignating the other paragraphs accordingly.
12 (b) Section 224 of the Comprehensive Crime Control
13 Act of 1984 is amended—
14 (1) by striking out subsection (b); and
15 (2) by redesignating subsection (c) as subsection
16 (b).
17 (c) Section 225 of the Comprehensive Crime Control
18 Act of 1984 is amended to read as follows:
19 "SEC. 225. Section 1010 of the Controlled Substances
20 Import and Export Act (21 U.S.C. 960) is amended by re-
21 pealing subsection (c).".

22 **SEC. 1519. MISCELLANEOUS TECHNICAL AMENDMENTS.**

23 (a)(1) Subsection (a) of section 3583 of title 18, United
24 States Code, is amended by inserting ", except that the court
25 shall include as a part of the sentence a requirement that the

1 defendant be placed on a term of supervised release if such a
2 term is required by statute" after "imprisonment" the second
3 place it appears.

4 (2) Subsection (b) of section 3583 of title 18, United
5 States Code, is amended by striking out "The" and inserting
6 in lieu thereof "Except as otherwise provided, the".

7 (3) Subsection (e) of section 3583 of title 18, United
8 States Code, is amended—

9 (A) so that the catchline reads as follows:
10 "**Modification of conditions or revocation.**";

11 (B) in paragraph (2) by striking out "or" after the
12 semicolon;

13 (C) in paragraph (3) by striking out "title," and
14 inserting "title; or" in lieu thereof; and

15 (D) by inserting the following new paragraph after
16 paragraph (3):

17 "(4) revoke a term of supervised release, and re-
18 quire the person to serve in prison all or part of the
19 term of supervised release without credit for time pre-
20 viously served on postrelease supervision, if it finds by
21 a preponderance of the evidence that the person violat-
22 ed a condition of supervised release, pursuant to the
23 provisions of rule 32.1 of the Federal Rules of Crimi-
24 nal Procedure that are applicable to probation revoca-

1 tion and to the provisions of applicable policy state-
2 ments issued by the Sentencing Commission.".
3 (4) The amendments made by this subsection shall take
4 effect on the date of the taking effect of section 3583 of title
5 18, United States Code.
6 (b) Subsection (3) of section 994(a) of title 28, United
7 States Code, is amended by inserting "and revocation of su-
8 pervised release" after "supervised release."
9 (c) Section 511 of title II of the Comprehensive Drug
10 Abuse Prevention Act of 1970 (21 U.S.C. 881) is
11 amended—
12 (1) in subsection (f) by inserting "or II" after "I"
13 each place it appears;
14 (2) by redesignating subsection (f) as subsection
15 (f)(1); and
16 (3) by inserting the following new paragraph after
17 subsection (f)(1) as so redesignated:
18 "(2) The Attorney General may direct the destruction of
19 all controlled substances in schedule I or II seized for viola-
20 tion of this title under such circumstances as the Attorney
21 General may deem necessary.".

1 **PART II—DRUG POSSESSION PENALTY ACT**
2 **OF 1986**

3 **SEC. 1521. SHORT TITLE.**

4 This part may be cited as the "Drug Possession Penalty
5 Act of 1986".

6 **SEC. 1522. PENALTY FOR SIMPLE POSSESSION.**

7 Section 404 of the Controlled Substances Act (21
8 U.S.C. 844) is amended to read as follows:

9 "PENALTY FOR SIMPLE POSSESSION

10 "SEC. 404. (a) It shall be unlawful for any person
11 knowingly or intentionally to possess a controlled substance
12 unless such substance was obtained directly, or pursuant to a
13 valid prescription or order, from a practitioner, while acting
14 in the course of his professional practice, or except as other-
15 wise authorized by this title or title III. Any person who
16 violates this subsection shall be sentenced to a term of im-
17 prisonment of not more than 1 year, and shall be fined a
18 minimum of $1,000 but not more than $5,000, or both,
19 except that if he commits such offense after a prior conviction
20 under this subsection, or a prior conviction for any drug or
21 narcotic offense chargeable under this title or title III or
22 under the law of any State, has become final, he shall be
23 sentenced to a term of imprisonment for not less than 15 days
24 but not more than 2 years, and shall be fined a minimum of
25 $2,500 but not more than $10,000, except, further, that if he
26 commits such offense after two or more prior convictions

1 under this subsection, or two or more prior convictions for
2 any drug or narcotic offense chargeable under the law of any
3 State or a combination of two or more such offenses have
4 become final, he shall be sentenced to a term of imprisonment
5 for not less than 90 days but not more than 3 years, and shall
6 be fined a minimum of $5,000 but not more than $25,000.
7 The imposition or execution of a minimum sentence required
8 to be imposed under this subsection shall not be suspended or
9 deferred. Further, upon conviction, a person who violates this
10 subsection shall be taxed the reasonable costs of the investi-
11 gation and prosecution of the offense, including the costs of
12 prosecution of an offense as defined in sections 1918 and
13 1920 of title 28, United States Code, except that this sen-
14 tence shall not apply and a fine under this section need not be
15 imposed if the court determines under the provision of title
16 18 that the defendant lacks the ability to pay.
17 "(b) As used in this section, the term 'drug or narcotic
18 offense' means any offense which proscribes the possession,
19 distribution, manufacture, cultivation, sale, transfer, or the
20 attempt or conspiracy to possess, distribute, manufacture,
21 cultivate, sell or transfer any substance the possession of
22 which is prohibited under this title.".

PART III—DEATH PENALTY AND CONTINUING DRUG ENTERPRISE

Subpart A—Death Penalty

SEC. 1531. PROCEDURE FOR IMPOSITION OF THE DEATH PENALTY.

Part II of title 18 of the United States Code is amended—

(1) by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH SENTENCE

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(a) an offense described in section 794 or section 2381 of this title;

"(b) an offense described in section 1751(c) of this title, if the offense, as determined beyond a reasonable doubt at the hearing under section 3593, constitutes an attempt to kill the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

1 "(c) any other offense for which a sentence of
2 death is provided, if the defendant, as determined
3 beyond a reasonable doubt at the hearing under section
4 3593—
5 "(1) intentionally killed the victim;
6 "(2) intentionally inflicted serious bodily
7 injury that resulted in the death of the victim; or
8 "(3) intentionally participated in an act, con-
9 templating that the life of a person would be
10 taken or intending that lethal force would be used
11 in connection with a person, other than one of the
12 participants in the offense, and the victim died as
13 a direct result of the act;
14 shall be sentenced to death if, after consideration of the fac-
15 tors set forth in section 3592 in the course of a hearing held
16 pursuant to section 3593, it is determined that imposition of a
17 sentence of death is justified.
18 **"§ 3592. Factors to be considered in determining whether**
19 **a sentence of death is justified**
20 "(a) MITIGATING FACTORS.—In determining whether a
21 sentence of death is justified for any offense, the jury, or if
22 there is no jury, the court, shall consider each of the follow-
23 ing mitigating factors and determine which, if any, exist:
24 "(1) the defendant was less than eighteen years of
25 age at the time of the offense;

1 "(2) the defendant's mental capacity was signifi-
2 cantly impaired, although the impairment was not such
3 as to constitute a defense to prosecution;
4 "(3) the defendant was under unusual and sub-
5 stantial duress, although not such duress as would con-
6 stitute a defense to prosecution; and
7 "(4) the defendant was an accomplice whose par-
8 ticipation in the offense was relatively minor.
9 The jury, or if there is no jury, the court, may consider
10 whether any other mitigating factor exists.
11 "(b) AGGRAVATING FACTORS FOR ESPIONAGE AND
12 TREASON.—In determining whether a sentence of death is
13 justified for an offense described in section 3591(a), the jury,
14 or if there is no jury, the court, shall consider each of the
15 following aggravating factors and determine which, if any,
16 exist:
17 "(1) the defendant has previously been convicted
18 of another offense involving espionage or treason for
19 which either a sentence of life imprisonment or death
20 was authorized by statute;
21 "(2) in the commission of the offense the defend-
22 ant knowingly created a grave risk of substantial
23 danger to the national security; and

1 "(3) in the commission of the offense the defend-
2 ant knowingly created a grave risk of death to another
3 person.
4 The jury, or if there is no jury, the court, may consider
5 whether any other aggravating factor exists.
6 "(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR
7 ATTEMPTED MURDER OF THE PRESIDENT.—In determin-
8 ing whether a sentence of death is justified for an offense
9 described in section 3591 (b) or (c), the jury, or if there is no
10 jury, the court, shall consider each of the following aggravat-
11 ing factors and determine which, if any, exist:
12 "(1) the death, or injury resulting in death, oc-
13 curred during the commission or attempted commission
14 of, or during the immediate flight from the commission
15 of, an offense under section 751 (prisoners in custody
16 of institution or officer), section 794 (gathering or de-
17 livering defense information to aid foreign government),
18 section 844(d) (transportation of explosives in interstate
19 commerce for certain purposes), section 844(f) (destruc-
20 tion of Government property in interstate commerce by
21 explosives), section 1118 (prisoners serving life term),
22 section 1201 (kidnaping), or section 2381 (treason) of
23 this title, or section 902 (i) or (n) of the Federal Avia-
24 tion Act of 1958, as amended (49 U.S.C. 1472 (i) or
25 (n)) (aircraft piracy);

1 "(2) the defendant has previously been convicted
2 of another Federal or State offense resulting in the
3 death of a person, for which a sentence of life impris-
4 onment or a sentence of death was authorized by
5 statute;
6 "(3) the defendant has previously been convicted
7 of two or more Federal or State offenses, punishable
8 by a term of imprisonment of more than one year,
9 committed on different occasions, involving the inflic-
10 tion of, or attempted infliction of, serious bodily injury
11 or death upon another person;
12 "(4) the defendant, in the commission of the of-
13 fense, or in escaping apprehension for the offense
14 knowingly caused the death or created a grave risk of
15 death to one or more persons in addition to the victim
16 of the offense;
17 "(5) the defendant committed the offense in an es-
18 pecially heinous, cruel, or depraved manner;
19 "(6) the defendant procured the commission of the
20 offense by payment, or promise of payment, of any-
21 thing of pecuniary value;
22 "(7) the defendant committed the offense as con-
23 sideration for the receipt, or in the expectation of the
24 receipt, of anything of pecuniary value;

1 "(8) the defendant committed the offense after
2 substantial planning and premeditation to cause the
3 death of a person or commit an act of terrorism;
4 "(9) the defendant committed the offense
5 against—
6 "(A) the President of the United States, the
7 President-elect, the Vice President, the Vice-
8 President-elect, the Vice-President-designate, or,
9 if there is no Vice President, the officer next in
10 order of succession to the office of the President
11 of the United States, or any person who is acting
12 as President under the Constitution and laws of
13 the United States;
14 "(B) a chief of state, head of government, or
15 the political equivalent, of a foreign nation;
16 "(C) a foreign official listed in section
17 1116(b)(3)(A) of this title, if he is in the United
18 States on official business; or
19 "(D) a Federal public servant who is a
20 judge, a law enforcement officer, or an employee
21 of a United States penal or correctional institu-
22 tion—
23 "(i) while he is engaged in the perform-
24 ance of his official duties;

1 "(ii) because of the performance of his
2 official duties; or
3 "(iii) because of his status as a public
4 servant.
5 For purposes of this subparagraph, a 'law enforce-
6 ment officer' is a public servant authorized by law
7 or by a Government agency or Congress to con-
8 duct or engage in the prevention, investigation, or
9 prosecution of an offense; or
10 "(10) the violation of section 408 of the Con-
11 trolled Substances Act in relation to which the conduct
12 described in section 848(c) occurred was a violation of
13 section 405, 405A, or 405B of the Controlled Sub-
14 stances Act.
15 The jury, or if there is no jury, the court, may consider
16 whether any other aggravating factor exists.
17 **"§ 3593. Special hearing to determine whether a sentence**
18 **of death is justified**
19 "(a) NOTICE BY THE GOVERNMENT.—If, in a case in-
20 volving an offense described in section 3591, the attorney for
21 the government believes that the circumstances of the offense
22 are such that a sentence of death is justified under this chap-
23 ter, he shall, a reasonable time before the trial, or before
24 acceptance by the court of a plea of guilty, or at such time
25 thereafter as the court may permit upon a showing of good

1 cause, sign and file with the court, and serve on the defend-
2 ant, a notice—
3 "(1) stating that the government believes that the
4 circumstances of the offense are such that, if the de-
5 fendant is convicted, a sentence of death is justified
6 under this chapter; and
7 "(2) setting forth the aggravating factor or factors
8 that the government, if the defendant is convicted, pro-
9 poses to prove as justifying a sentence of death.
10 The court may permit the attorney for the government to
11 amend the notice upon a showing of good cause.
12 "(b) HEARING BEFORE A COURT OR JURY.—If the at-
13 torney for the government has filed a notice as required
14 under subsection (a) and the defendant is found guilty of an
15 offense described in section 3591, the judge who presided at
16 the trial or before whom the guilty plea was entered, or an-
17 other judge if that judge is unavailable, shall conduct a sepa-
18 rate sentencing hearing to determine the punishment to be
19 imposed. Prior to such a hearing, no presentence report shall
20 be prepared by the United States Probation Service, notwith-
21 standing the provisions of Rule 32(e) of the Federal Rules of
22 Criminal Procedure. The hearing shall be conducted—
23 "(1) before the jury that determined the defend-
24 ant's guilt;

1 "(2) before a jury impaneled for the purpose of
2 the hearing if—
3 "(A) the defendant was convicted upon a
4 plea of guilty;
5 "(B) the defendant was convicted after a trial
6 before the court sitting without a jury;
7 "(C) the jury that determined the defendant's
8 guilt was discharged for good cause; or
9 "(D) after initial imposition of a sentence
10 under this section, reconsideration of the sentence
11 under this section is necessary; or
12 "(3) before the court alone, upon the motion of
13 the defendant and with the approval of the attorney for
14 the government.
15 A jury impaneled pursuant to paragraph (2) shall consist of
16 twelve members, unless, at any time before the conclusion of
17 the hearing, the parties stipulate, with the approval of the
18 court, that it shall consist of a lesser number.
19 "(c) PROOF OF MITIGATING AND AGGRAVATING FAC-
20 TORS.—At the hearing, information may be presented as to
21 any matter relevant to the sentence, including any mitigating
22 or aggravating factor permitted or required to be considered
23 under section 3592. Information presented may include the
24 trial transcript and exhibits if the hearing is held before a jury
25 or judge not present during the trial. Any other information

1 relevant to a mitigating or aggravating factor may be pre-
2 sented by either the attorney for the government or the de-
3 fendant, regardless of its admissibility under the rules govern-
4 ing admission of evidence at criminal trials, except that infor-
5 mation may be excluded if its probative value is substantially
6 outweighed by the danger of creating unfair prejudice, con-
7 fusing the issues, or misleading the jury. The attorney for the
8 government and the defendant shall be permitted to rebut
9 any information received at the hearing, and shall be given
10 fair opportunity to present argument as to the adequacy of
11 the information to establish the existence of any aggravating
12 or mitigating factor, and as to the appropriateness in the case
13 of imposing a sentence of death. The attorney for the govern-
14 ment shall open the argument. The defendant shall be per-
15 mitted to reply. The attorney for the government shall then
16 be permitted to reply in rebuttal. The burden of establishing
17 the existence of any aggravating factor is on the government,
18 and is not satisfied unless the existence of such a factor is
19 established beyond a reasonable doubt. The burden of estab-
20 lishing the existence of any mitigating factor is on the defend-
21 ant, and is not satisfied unless the existence of such a factor
22 is established by a preponderance of the information.
23 "(d) RETURN OF SPECIAL FINDINGS.—The jury, or if
24 there is no jury, the court, shall consider all the information
25 received during the hearing. It shall return a special finding

1 as to each mitigating and aggravating factor, concerning
2 which information is presented at the hearing, required to be
3 considered under section 3592. The jury must find the exist-
4 ence of a mitigating or aggravating factor by a unanimous
5 vote, although it is unnecessary that there be a unanimous
6 vote on any specific mitigating or aggravating factor if a ma-
7 jority of the jury finds the existence of such a specific factor.
8 "(e) RETURN OF A FINDING CONCERNING A SEN-
9 TENCE OF DEATH.—If, in the case of—
10 "(1) an offense described in section 3591(a), an
11 aggravating factor required to be considered under sec-
12 tion 3592(b) is found to exist pursuant to subsection
13 (d); or
14 "(2) an offense described in section 3591 (b) or
15 (c), an aggravating factor required to be considered
16 under section 3592(c) is found to exist pursuant to sub-
17 section (d);
18 the jury, or if there is no jury, the court, shall then consider
19 whether all the aggravating factors contributing to a unani-
20 mous vote sufficiently outweigh all the mitigating factors
21 contributing to a unanimous vote justify a sentence of death,
22 or, in the absence of a mitigating factor, whether the aggra-
23 vating factors alone are sufficient to justify a sentence of
24 death. Based upon this consideration, the jury by unanimous

1 vote, or if there is no jury, the court, shall return a finding as
2 to whether a sentence of death is justified.
3 "(f) SPECIAL PRECAUTION TO ASSURE AGAINST DIS-
4 CRIMINATION.—In a hearing held before a jury, the court,
5 prior to the return of a finding under subsection (e), shall
6 instruct the jury that, in considering whether a sentence of
7 death is justified, it shall not consider the race, color, national
8 origin, creed, or sex of the defendant. The jury, upon return
9 of a finding under subsection (e), shall also return to the court
10 a certificate, signed by each juror, that consideration of the
11 race, color, national origin, creed, or sex of the defendant
12 was not involved in reaching the juror's individual decision.
13 **"§3594. Imposition of a sentence of death**
14 "Upon a finding under section 3593(e) that a sentence
15 of death is justified, the court shall sentence the defendant to
16 death. Upon a finding under section 3593(e) that a sentence
17 of death is not justified, or under section 3593(d) that no
18 aggravating factor required to be found exists, the court shall
19 impose any sentence other than death that is authorized by
20 law. Notwithstanding any other provision of law, if the maxi-
21 mum term of imprisonment for the offense is life imprison-
22 ment, the court may impose a sentence of life imprisonment
23 without parole.

1 **"§3595. Review of a sentence of death**

2 "(a) APPEAL.—In a case in which a sentence of death
3 is imposed, the sentence shall be subject to review by the
4 court of appeals upon appeal by the defendant. Notice of
5 appeal must be filed within the time specified for the filing of
6 a notice of appeal. An appeal under this section may be con-
7 solidated with an appeal of the judgment of conviction and
8 shall have priority over all other cases.

9 "(b) REVIEW.—The court of appeals shall review the
10 entire record in the case, including—

11 "(1) the evidence submitted during the trial;

12 "(2) the information submitted during the sentenc-
13 ing hearing;

14 "(3) the procedures employed in the sentencing
15 hearing; and

16 "(4) the special findings returned under section
17 3593(d).

18 "(c) DECISION AND DISPOSITION.—(1) If the court of
19 appeals determines that—

20 "(A) the sentence of death was not imposed under
21 the influence of passion, prejudice, or any other arbi-
22 trary factor; and

23 "(B) the information supports the special finding
24 of the existence of an aggravating factor required to be
25 considered under section 3592;

26 it shall affirm the sentence.

1 "(2) In any other case, the court of appeals shall
2 remand the case for reconsideration under section 3593.
3 "(3) The court of appeals shall state in writing the rea-
4 sons for its disposition of an appeal of a sentence of death
5 under this section.

6 **"§3596. Implementation of a sentence of death**

7 "A person who has been sentenced to death pursuant to
8 the provisions of this chapter shall be committed to the custo-
9 dy of the Attorney General until exhaustion of the procedures
10 for appeal of the judgment of conviction and for review of the
11 sentence. When the sentence is to be implemented, the At-
12 torney General shall release the person sentenced to death to
13 the custody of a United States marshal, who shall supervise
14 implementation of the sentence in the manner prescribed by
15 the law of the State in which the sentence is imposed. If the
16 law of such State does not provide for implementation of a
17 sentence of death, the court shall designate another State,
18 the law of which does so provide, and the sentence shall be
19 implemented in the latter State in the manner prescribed by
20 such law. A sentence of death shall not be carried out upon a
21 woman while she is pregnant.

22 **"§3597. Use of State facilities**

23 "A United States marshal charged with supervising the
24 implementation of a sentence of death may use appropriate
25 State or local facilities for the purpose, may use the services

1 of an appropriate State or local official or of a person such an
2 official employs for the purpose, and shall pay the costs
3 thereof in an amount approved by the Attorney General.";
4 (2) by repealing sections 3566 and 3567;
5 (3) in the chapter analysis of part II, by adding
6 the following new item after the item relating to chap-
7 ter 227:

"228. Death sentence ..... 3591";

8 and
9 (4) in the section analysis of chapter 227, by
10 amending the items relating to sections 3566 and 3567
11 to read as follows:

"3566. Repealed.
"3567. Repealed.".

12 **SEC. 1532. OTHER AMENDMENTS TO TITLE 18.**
13 (a) Section 34 of title 18 of the United States Code is
14 amended by changing the comma after the words "imprison-
15 ment for life" to a period and deleting the remainder of the
16 section.
17 (b) Section 794(a) of title 18, United States Code, is
18 amended by changing the period at the end of the section to a
19 comma and by adding immediately thereafter the words
20 "except that the sentence of death shall not be imposed
21 unless the jury or, if there is no jury, the court, further finds
22 beyond a reasonable doubt at a hearing under section 3593 of
23 this title that the offense directly concerned nuclear weapon-

1 ry, military spacecraft or satellites, early warning systems, or
2 other means of defense or retaliation against large-scale
3 attack; war plans; communications intelligence or crypto-
4 graphic information; sources or methods of intelligence or
5 counterintelligence operations; or any other major weapons
6 system or major element of defense strategy.".

7 (c) Section 844(d) of title 18, United States Code, is
8 amended by striking the words "as provided in section 34 of
9 this title".

10 (d) Section 844(f) of title 18 of the United States Code is
11 amended by striking the words "as provided in section 34 of
12 this title".

13 (e) Section 844(i) of title 18 of the United States Code is
14 amended by striking the words "as provided in section 34 of
15 this title".

16 (f) The second paragraph of section 1111(b) of title 18 of
17 the United States Code is amended to read as follows:

18 "Whoever is guilty of murder in the first degree shall be
19 punished by death or by imprisonment for life;".

20 (g) Section 1116(a) of title 18 of the United States Code
21 is amended by striking the words "any such person who is
22 found guilty of murder in the first degree shall be sentenced
23 to imprisonment for life, and".

24 (h) Section 1201 of title 18 of the United States Code is
25 amended by inserting after the words "or for life" in subsec-

1 tion (a) the words "and, if the death of any person results,
2 shall be punished by death or life imprisonment".
3 (i) The last paragraph of section 1716 of title 18 of the
4 United States Code is amended by changing the comma after
5 the words "imprisonment for life" to a period and deleting
6 the remainder of the paragraph.
7 (j) Subsection (c) of section 1751 of title 18, United
8 States Code, is amended to read as follows:
9 "(c) Whoever attempts to kill or kidnap any individual
10 designated in subsection (a) of this section shall be punished
11 (1) by imprisonment for any term of years or for life, or (2) by
12 death or imprisonment for any term of years or for life, if the
13 conduct constitutes an attempt to kill the President of the
14 United States and results in bodily injury to the President or
15 otherwise comes dangerously close to causing the death of
16 the President.".
17 (k) The second to the last paragraph of section 1992 of
18 title 18, United States Code, is amended by changing the
19 comma after the words "imprisonment for life" to a period
20 and deleting the remainder of the section.
21 (l) Section 2031 of title 18, United States Code, is
22 amended by deleting the words "death, or".
23 (m) Section 2113(e) of title 18, United States Code, is
24 amended by striking the words "or punished by death if the
25 verdict of the jury shall so direct" and inserting in lieu there-

1 of the words "or if death results shall be punished by death or
2 life imprisonment".

3 (n) The provisions of chapter 228 of title 18, United
4 States Code, as added by this part, shall not apply to pros-
5 ecutions under the Uniform Code of Military Justice (10
6 U.S.C. 801).

7 (o) Subsection (a) of section 1952A of title 18, United
8 States Code, is amended by striking out: "and if death re-
9 sults, shall be subject to imprisonment for any term of years
10 or for life, or shall be fined not more than $50,000, or both."
11 and inserting in lieu thereof: "and if death results, shall be
12 punished by death or life imprisonment, or shall be fined
13 under this title, or both.".

14 (p) Paragraph (1) of subsection (a) of section 1952B of
15 title 18, United States Code, is amended to read as follows:

16 "(1) for murder, by death or life imprisonment, or
17 a fine or not more than $250,000, or both; and for kid-
18 naping, by imprisonment for any item of years or for
19 life, or shall be fined under this title, or both;".

20 (q) Subsection (a) of section 1203 of title 18, United
21 States Code, is amended by striking "." and inserting in lieu
22 thereof: "and, if the death of any person results, shall be
23 punished by death or life imprisonment.".

1 **SEC. 1533. MURDER BY A FEDERAL PRISONER.**

2 Chapter 51 of title 18, United States Code, is
3 amended—

4 (1) by adding at the end thereof the following:

5 **"§ 1118. Murder by a Federal prisoner**

6 "(a) Whoever, while confined in a Federal correctional
7 institution under a sentence for a term of life imprisonment,
8 murders another shall be punished by death or by life impris-
9 onment without the possibility of parole.

10 "(b) For the purposes of this section—

11 "(1) 'Federal correctional institution' means any
12 Federal prison, Federal correctional facility, Federal
13 community program center, or Federal halfway house;

14 "(2) 'term of life imprisonment' means a sentence
15 for the term of natural life, a sentence commuted to
16 natural life, an indeterminate term of a minimum of at
17 least fifteen years and a maximum of life, or an unexe-
18 cuted sentence of death;

19 "(3) 'murders' means committing first degree or
20 second degree murder as defined by section 1111 of
21 this title."; and

22 (c) by amending the section analysis to add:

"1118. Murder by a Federal prisoner.".

1 **SEC. 1534. AMENDMENT TO FEDERAL AVIATION ACT.**

2 Section 903 of the Federal Aviation Act of 1958, as
3 amended (49 U.S.C. 1473), is amended by striking subsection
4 (c).

5 **SEC. 1535. DEATH PENALTY UNDER THE CONTROLLED SUB-**
6 **STANCES ACT.**

7 Section 408 of the Controlled Substances Act (21
8 U.S.C. 848) is amended by adding the following after subsec-
9 tion (b), as added by part B of this part:

10 "(c) Whoever, while engaged in a continuing criminal
11 enterprise, kills another person shall be punished by life im-
12 prisonment or by death.".

13 **Subpart B—Continuing Drug Enterprise Act of**
14 **1986**

15 **SEC. 1536. SHORT TITLE.**

16 This part may be cited as the Continuing Drug Enter-
17 prise Act of 1986".

18 **SEC. 1537. INCREASED PENALTIES.**

19 Subsection 408(a) of the Controlled Substances Act (21
20 U.S.C. 848(a)) is amended as follows:

21 (1) by striking out the phrase "to a fine of not
22 more than $100,000," and inserting in lieu thereof "to
23 a fine not to exceed the greater of that authorized in
24 accordance with the provisions of title 18, United
25 States Code or $2,000,000 if the defendant is an indi-

1 vidual or $5,000,000 if the defendant is other than an
2 individual,"; and
3 (2) by striking out the phrase "to a fine of not
4 more than $200,000," and inserting in lieu thereof "to
5 a fine not to exceed the greater of twice the amount
6 authorized in accordance with the provisions of title
7 18, United States Code, or $4,000,000 if the defendant
8 is an individual or $10,000,000 if the defendant is
9 other than an individual".
10 **SEC. 1538. DEATH PENALTY.**
11 Section 408 of the Controlled Substances Act (21
12 U.S.C. 848) is further amended—
13 (1) by redesignating subsections (b) and (c) as sub-
14 sections (d) and (e), respectively; and
15 (2) by inserting the following new subsections
16 after subsection (a):
17 "(b) Any person who engages in a continuing
18 criminal enterprise shall be imprisoned for life and
19 fined in accordance with subsection (a), if—
20 "(1) such person is the principal administrator, or-
21 ganizer, or leader of the enterprise or is one of several
22 such principal administrators, organizers, or leaders;
23 and
24 "(2)(A) the violation referred to in subsection
25 (d)(1) involved at least 300 times the quantity of a sub-

1 stance described in subsection 401(b)(1)(A) of this Act,
2 or
3 "(B) the enterprise, or any other enterprise in
4 which the defendant was the principal or one of several
5 principal administrators, organizers, or leaders, re-
6 ceived $10 million dollars in gross receipts during any
7 twelve-month period of its existence for the manufac-
8 ture, importation, or distribution of a substance de-
9 scribed in section 401(b)(1)(A) of this Act."

10 PART IV—CONTROLLED SUBSTANCES 11 IMPORT AND EXPORT ACT PENALTIES 12 ENHANCEMENT ACT OF 1986

13 **SEC. 1541. SHORT TITLE.**

14 This part may be cited as the "Controlled Substances
15 Import and Export Penalties Enhancement Act of 1986.".

16 **SEC. 1542. ENHANCED PENALTIES.**

17 (a) Paragraphs (1) and (2) of section 1010(b) of the Con-
18 trolled Substances Import and Export Act (21 U.S.C. 960(b)
19 (1) and (2)) are amended to read as follows:
20 "(1) In the case of a violation of subsection (a) of this
21 section involving—
22 "(A) 100 grams or more of a mixture or sub-
23 stance containing a detectable amount of heroin;
24 "(B) 500 grams or more of a mixture or substance
25 containing a detectable amount of—

1 "(i) coca leaves, except coca leaves and ex-
2 tracts of coca leaves from which cocaine, ecgo-
3 nine, and derivatives of ecgonine or their salts
4 have been removed;
5 "(ii) cocaine, its salts, optical and geometric
6 isomers, and salts or isomers;
7 "(iii) ecgonine, its derivatives, their salts, iso-
8 mers, and salts of isomers; or
9 "(iv) any compound, mixture, or preparation
10 which contains any quantity of any of the sub-
11 stances referred to in clauses (i) through (iii);
12 "(C) 25 grams or more of a mixture or substance
13 described in subparagraph (B) which contains cocaine
14 base;
15 "(D) 10 grams or more of phencyclidine (PCP) or
16 100 grams or more of a mixture or substance contain-
17 ing a detectable amount of phencyclidine (PCP);
18 "(E) 1 gram or more of a mixture or substance
19 containing a detectable amount of lysergic acid diethy-
20 lamide (LSD);
21 "(F) 40 grams or more of a mixture or substance
22 containing a detectable amount of fentanyl or 10 grams
23 or more of a mixture or substance containing a detect-
24 able amount of any analog of fentanyl; or

1 "(G) 500 kilograms or more of a mixture or sub-
2 stance containing a detectable amount of marihuana;
3 the person committing such violation shall be sentenced to a
4 term of imprisonment of not less than 5 years and not more
5 than 40 years and if death results from the use of such sub-
6 stance shall be sentenced to a term of imprisonment of not
7 less than 20 years and not more than life, a fine not to
8 exceed the greater of that authorized in accordance with the
9 provisions of title 18, United States Code, or $2,000,000 if
10 the defendant is an individual or $5,000,000 if the defendant
11 is other than an individual, or both. If any person commits
12 such a violation after one or more prior convictions for an
13 offense punishable under this subsection, or for a felony under
14 any other provision of this title or title II or other law of a
15 State, the United States, or a foreign country relating to nar-
16 cotic drugs, marihuana, or depressant or stimulant sub-
17 stances, have become final, such person shall be sentenced to
18 a term of imprisonment of not less than 10 years and not
19 more than life imprisonment and if death results from the use
20 of such substance shall be sentenced to life imprisonment, a
21 fine not to exceed the greater of twice that authorized in
22 accordance with the provisions of title 18, United States
23 Code, or $4,000,000 if the defendant is an individual or
24 $10,000,000 if the defendant is other than an individual, or
25 both. Any sentence under this paragraph shall, in the absence

1 of such a prior conviction, impose a special parole term of at
2 least 4 years in addition to such term of imprisonment and
3 shall, if there was such a prior conviction, impose a special
4 parole term of at least 8 years in addition to such term of
5 imprisonment. Notwithstanding the preceding sentence and
6 notwithstanding any other provision of law, the court shall
7 not place on probation or suspend the sentence of any person
8 sentenced under this paragraph nor shall the term of impris-
9 onment imposed under this paragraph run concurrently with
10 any other term of imprisonment under this paragraph or
11 under any other provision of law. No person sentenced under
12 this paragraph shall be eligible for parole during the term of
13 imprisonment imposed therein.

14 "(2) In the case of a violation under subsection (a) of
15 this section involving a controlled substance in schedule I or
16 II, the person committing such violation shall, except as pro-
17 vided in paragraphs (1) and (3), be sentenced to a term of
18 imprisonment of not more than 20 years and if death results
19 from the use of such substance shall be sentenced to a term of
20 imprisonment of not less than 20 years and not more than
21 life, a fine not to exceed the greater of that authorized in
22 accordance with the provisions of title 18, United States
23 Code, or $1,000,000 if the defendant is an individual or
24 $5,000,000 if the defendant is other than an individual, or
25 both. If any person commits such a violation after one or

1 more prior convictions for an offense punishable under this
2 subsection, or for a felony under any other provision of this
3 title or title II or other law of a State, the United States or a
4 foreign country relating to narcotic drugs, marihuana, or de-
5 pressant or stimulant substances, have become final, such
6 person shall be sentenced to a term of imprisonment of not
7 more than 30 years and if death results from the use of such
8 substance shall be sentenced to life imprisonment, a fine not
9 to exceed the greater of twice that authorized in accordance
10 with the provisions of title 18, United States Code, or
11 $2,000,000 if the defendant is an individual or $10,000,000
12 if the defendant is other than an individual, or both. Any
13 sentence imposing a term of imprisonment under this para-
14 graph shall, in the absence of such a prior conviction, impose
15 a special parole term of at least 3 years in addition to such
16 term of imprisonment and shall, if there was such a prior
17 conviction, impose a special parole term of at least 6 years in
18 addition to such term of imprisonment. Notwithstanding the
19 prior sentence, and notwithstanding any other provision of
20 law, the court shall not place on probation or suspend the
21 sentence of any person sentenced under the provisions of this
22 paragraph which provide for a mandatory term of imprison-
23 ment if death results, nor shall such a term of imprisonment
24 run concurrently with any other term of imprisonment under
25 this paragraph or under any other provision of law, nor shall

1 a person so sentenced be eligible for parole during the term of
2 such a sentence.".
3 (b) Section 1010(b)(3) of the Controlled Substances
4 Import and Export Act (21 U.S.C. 960(b)(3)) is amended—
5 (1) by striking out ", except as provided in para-
6 graph (4)";
7 (2) by striking out the phrase "fined not more
8 than $50,000" and inserting in lieu thereof "fined not
9 to exceed the greater of that authorized in accordance
10 with the provisions of title 18, United States Code, or
11 $250,000 if the defendant is an individual or
12 $1,000,000 if the defendant is other than an individ-
13 ual"; and
14 (3) by inserting "except in the case of 100 or
15 more marihuana plants regardless of weight," after
16 "marihuana,".

17 **PART V—JUVENILE DRUG TRAFFICKING**
18 **ACT OF 1986**

19 **SEC. 1551. SHORT TITLE.**
20 This part may be cited as the "Juvenile Drug Traffick-
21 ing Act of 1986".

22 **SEC. 1552. OFFENSE.**
23 Part D of the Controlled Substances Act is amended by
24 adding after section 405A a new section as follows:

1 "EMPLOYMENT OR USE OF PERSONS UNDER TWENTY-ONE
2 YEARS OF AGE IN DRUG OPERATIONS

3 "SEC. 405B. (a) Except as authorized by this title, it
4 shall be unlawful for any person at least eighteen years of
5 age to knowingly and intentionally—

6 "(1) employ, hire, use, persuade, induce, entice,
7 or coerce, a person under twenty-one years of age to
8 violate any provision of this title; or

9 "(2) employ, hire, use, persuade, induce, entice,
10 or coerce, a person under twenty-one years of age to
11 assist in avoiding detection or apprehension for any of-
12 fense of this title by any Federal, State, or local law
13 enforcement official.

14 "(b) Any person at least eighteen years of age who vio-
15 lates section 405B(a) (1) or (2) of this title is punishable by a
16 term of imprisonment, or a fine, or both; up to twice that
17 authorized by section 401(b) of this title, and at least twice
18 any special parole term authorized by section 401(b) of this
19 title, for a first offense.

20 "(c) Any person at least eighteen years of age who vio-
21 lates section 405B(a) (1) or (2) of this title after a prior con-
22 viction or convictions under subsection (a) of this section have
23 become final, is punishable by a term of imprisonment, or a
24 fine, or both, up to three times that authorized by section
25 401(b) of this title for a first offense under that section, and at

1 least three times any special parole term authorized by sec-
2 tion 401(b) of this title for a first offense under that section.
3 "(d) Any person who violates subsection (a)(1) or (a)(2)-
4 "(1) by knowingly providing or distributing to any
5 person under twenty-one years of age or any pregnant
6 individual with any controlled substance; or
7 "(2) if the person employed, hired, or used is four-
8 teen years of age or younger,
9 shall be subject to a term of imprisonment for not more than
10 five years or a fine of not more than $50,000, or both, in
11 addition to any other punishment authorized by this section.
12 "(e) In any case of any sentence imposed under this
13 section, imposition or execution of such sentence shall not be
14 suspended and probation shall not be granted. An individual
15 convicted under this section of an offense for which a manda-
16 tory minimum term of imprisonment is set out in section
17 401(b) of this title shall not be eligible for parole under sec-
18 tion 4202 of title 18, United States Code, until the individual
19 has served the mandatory term of imprisonment required by
20 section 401(b) as enhanced by this section.".
21 **SEC. 1553. TECHNICAL AMENDMENTS.**
22 (a) Section 401(b) of the Controlled Substances Act (21
23 U.S.C. 841(b)) is amended by deleting the phrase "or 405A'
24 and inserting in lieu thereof ", 405A, or 405B".

1 (b) Section 401(c) of the Controlled Substances Act (21
2 U.S.C. 841(c)) is amended by striking out "405A" each place
3 it appears and inserting in lieu thereof ", 405A, or 405B".
4 (c) The table of contents of the Comprehensive Drug
5 Abuse Prevention and Control Act of 1970 is amended by
6 inserting after the item relating to section 405A the
7 following:

"405B. Employment of minors in controlled substance trafficking.".

8 **SEC. 1554. DISTRIBUTION OF A CONTROLLED SUBSTANCE**
9 **WITHIN 1000 FEET OF A COLLEGE.**

10 Section 405A of the Controlled Substances Act (21
11 U.S.C. 845a) is amended, in subsection (a), by adding after
12 the word "distributing" the words "or manufacturing" and
13 by striking the words "a public or private elementary or sec-
14 ondary school" and inserting in lieu thereof "a public or pri-
15 vate elementary, vocational, or secondary school or a public
16 or private college, junior college, or university".

17 PART VI—CHEMICAL DIVERSION AND
18 TRAFFICKING ACT OF 1986

19 **SEC. 1561. SHORT TITLE.**

20 This part may be cited as the "Chemical Diversion and
21 Trafficking Act of 1986".

22 **SEC. 1562. OFFENSE.**

23 Part C of the Controlled Substances Act is amended by
24 adding at the end thereof the following new section:

1 "CHEMICAL DIVERSION AND TRAFFICKING

2 "SEC. 311. (a)(1) Except as provided under paragraph
3 (3) of this subsection any person who manufactures, distrib-
4 utes, imports or exports a substance listed under subsection
5 (d) shall maintain records and make reports as the Attorney
6 General may by regulation require concerning the distribu-
7 tion, sale, importation or exportation of said listed sub-
8 stances. Such records shall be in a form such that they are
9 readily retrievable from ordinary business records and shall
10 be kept and made available, for at least 5 years, for inspec-
11 tion and copying by officers or employees of the United
12 States authorized by the Attorney General. In establishing
13 regulations concerning required records and reports, the At-
14 torney General may establish a threshold quantity for record-
15 keeping and reporting requirements for each listed chemical.
16 The Attorney General may include in the information re-
17 quired to be maintained or reported the following:

18 "(A) The quantity, form, and manner in which,
19 and date on which, the substance was distributed, im-
20 ported or exported.

21 "(B)(i) In the case of the distribution or exporta-
22 tion to an individual, the name, address, and age of the
23 individual and the type of identification presented to
24 confirm the identity of the individual.

1 "(ii) In the case of the distribution or exportation
2 to an entity other than an individual, the name and ad-
3 dress of the entity and the name, address, and title of
4 the individual ordering or receiving the substance and
5 the type of identification presented to confirm the iden-
6 tity of the individual and of the entity.
7 "(2) Except as provided under paragraph (3) of this sub-
8 section, no person may distribute or export a substance listed
9 under subsection (d) unless the recipient or purchaser pre-
10 sents to the distributor a certification of lawful use and identi-
11 fication, to establish the identity of the recipient or purchaser
12 (and any entity which the recipient or purchaser represents),
13 of such a type as the Attorney General establishes by
14 regulation.
15 "(3) It shall be unlawful to purchase a reportable
16 amount of any chemical listed under subsection (d) in units
17 small enough so that the making of records or filing of re-
18 ports under this section is not required for the purpose of
19 evading the recordkeeping or reporting requirements created
20 by this section and the regulations promulgated thereunder.
21 "(4) Under such conditions and to such extent as the
22 Attorney General establishes, paragraphs (1), (2), and (3)
23 shall not apply to—
24 "(A) the distribution of listed substances between
25 agents or employees within a single facility (as defined

1 by the Attorney General), if such agents or employees
2 are acting in the lawful and usual course of their busi-
3 ness or employment;
4 "(B) the delivery of listed substances to or by a
5 common or contract carrier for carriage in the lawful
6 and usual course of its business, or to or by a ware-
7 houseman for storage in the lawful and usual course of
8 its business; but where such carriage or storage is in
9 connection with the distribution or importation of sub-
10 stances to a third person, this subparagraph shall not
11 relieve the distributor or importer from compliance
12 with paragraph (1) or (2); or
13 "(C) any distribution or importation with respect
14 to which the Attorney General determines that the re-
15 ports or records required by paragraph (1) or the pres-
16 entation of identification or certification required by
17 paragraph (2) is not necessary for the enforcement of
18 this subchapter.
19 "(b) It shall be unlawful:
20 "(1) to the customs territory of the United States
21 from any place outside thereof (but within the United
22 States), or to import into the United States from any
23 place outside thereof, any substance listed under sub-
24 section (d) unless the substance is imported for com-
25 mercial, scientific or other legitimate uses, and—

1 "(A) In the case of substances listed in sub-
2 section (d)(1), pursuant to a permit issued by the
3 Attorney General, or
4 "(B) In the case of substances listed in sub-
5 section (d)(2), pursuant to such notification or dec-
6 laration requirements as the Attorney General
7 may by regulation prescribe.
8 "(2) It shall be unlawful to export from the
9 United States to any other country a substance listed
10 under subsection (d) unless there is furnished (before
11 export) to the Attorney General documentary proof
12 that importation is not contrary to the laws or regula-
13 tions of the country of destination for consumption for
14 medical, commercial, scientific, or other legitimate pur-
15 poses and—
16 "(A) In the case of substances listed in sub-
17 section (d)(1), pursuant to a permit issued by the
18 Attorney General, or
19 "(B) In the case of substances listed in sub-
20 section (d)(2), pursuant to such notification or dec-
21 laration requirements as the Attorney General
22 may by regulation prescribe.
23 "(c) The Attorney General may by rule:
24 "(1) Add substances to paragraph (d) if—

1 "(A) he finds that such substance is a precur-
2 sor or essential chemical which can be used to
3 manufacture a controlled substance, and
4 "(B) such substance is being used in the
5 manufacture of controlled substances in violation
6 of this title, and
7 "(C) he finds that the inclusion of such sub-
8 stance in subsection (d) is necessary to curtail the
9 manufacture of controlled substances in violation
10 of this title.
11 "(2) Delete a substance listed in subsection (d) if
12 he finds that its listing no longer meets the criteria set
13 forth in paragraph (1).
14 "(d) The provisions of this title shall apply to the
15 following:
16 "(1) Precursor chemicals:
17 "(A) N-Acetylanthranilic acid;
18 "(B) Anthranilic acid;
19 "(C) Ergotamine tartrate;
20 "(D) Ergonovine maleate;
21 "(E) Phenylacetic acid;
22 "(F) Ephedrine;
23 "(G) Pseudoephedrine;
24 "(H) Benzyl cyanide;
25 "(I) Benzyl chloride; and

1 "(J) Piperidine.

2 "(2) Essential chemicals:

3 "(A) Potassium permanganate;

4 "(B) Acetic anhydride;

5 "(C) Acetone; and

6 "(D) Ethyl ether.

7 "(e) Any information which is reported to or otherwise
8 obtained by the Attorney General under this section and
9 which is exempt from disclosure pursuant to subsection (a) of
10 section 552 of title 5 by reason of subsection (4) thereof shall
11 be considered confidential and shall not be disclosed, except
12 that such information may be disclosed to officers or employ-
13 ees of the United States concerned with carrying out this title
14 or title III or when relevant in any proceeding for the en-
15 forcement of this title or title III or when necessary to meet
16 United States treaty obligations.

17 "(f) For the purposes of this title—

18 "(1) the term "import" has the same meaning
19 given such term in section 1001 of title III (21 U.S.C.
20 951 (a)(1)); and

21 "(2) the term 'customs territory of the United
22 States' has the same meaning given such term in sec-
23 tion 1001 of title III (21 U.S.C. 951(a)(2)).

24 "(g) No person may distribute, sell, import, export, or
25 otherwise transfer to another person any commercial tablet-

1 ing machine or encapsulating machine unless the purchaser,
2 recipient, transferee, or his agent presents to the distributor
3 or supplier a certification of lawful use and identification to
4 confirm the identity of the recipient or purchaser (and any
5 entity which the recipient or purchaser represents) or such a
6 type as the Attorney General by regulation may establish.
7 "(h) Any person who distributes, sells, imports, exports
8 or otherwise transfers to another person any commercial tab-
9 leting machine or encapsulating machine shall report the
10 transfer to the Attorney General in such a form as the Attor-
11 ney General may by regulation require. The Attorney Gener-
12 al may require such information as the date of sale or trans-
13 fer, name and address of transferee, purpose for which equip-
14 ment is intended, serial numbers and make/model of
15 equipment.".
16 **SEC. 1563. TECHNICAL AND CONFORMING AMENDMENTS.**
17 (a) Section 401(d)(1) (21 U.S.C. 841(d)(1)) of the Con-
18 trolled Substances Act is amended by—
19 (1) deleting the word "piperidine" and replacing it
20 with the words "precursor chemical or essential chemi-
21 cal listed under section 311(d)"; and
22 (2) deleting the word "phencyclidine" and replac-
23 ing it with the words "any controlled substance".
24 (b) Section 401(d)(2) (21 U.S.C. 841(d)(2)) of the Con-
25 trolled Substances Act is amended by—

1 (1) adding the words "or distributes" after the
2 word "possesses";
3 (2) deleting the word "piperidine" the first place
4 it appears and replacing it with the words "precursor
5 chemical or essential chemical listed under section
6 311(d)";
7 (3) deleting the word "piperidine" the second
8 place it appears and replacing it with the words "pre-
9 cursor chemical or essential chemical"; and
10 (4) deleting the word "phencyclidine" and replac-
11 ing it with "any controlled substance".
12 (c) Section 401(d) of the Controlled Substances Act (21
13 U.S.C. 841(d)) is amended by—
14 (1) deleting "or" in paragraph (1);
15 (2) adding new paragraphs (3) and (4) after para-
16 graph (2) as follows:
17 "(3) imports or exports a precursor or essential
18 chemical listed under section 311(d) except as provided
19 for by this Act, or
20 "(4) possesses any precursor chemical or essential
21 chemical listed under section 311(d), with knowledge
22 that the recordkeeping or reporting requirements of
23 section 311(a) of this title or regulations issued there-
24 under have not been adhered to".

1 (d) Section 402(a)(9) (21 U.S.C. 842(a)(9)) of the Con-
2 trolled Substances Act is amended by—
3 (1) deleting the word "piperidine" and replacing it
4 with the words "a precursor chemical or essential
5 chemical listed under section 311(d)";
6 (2) adding after the citation "section 310(a)(2)"
7 the phrase "or section 311(a)(2)"; and
8 (3) adding "or certification" after "identification".
9 (e) Section 403(a) (21 U.S.C. 843(a)) of the Controlled
10 Substances Act is amended by—
11 (1) in paragraph (4)(B) by deleting the word "pi-
12 peridine" and replacing it with the words "a precursor
13 chemical or essential chemical listed under section
14 311(d)";
15 (2) in paragraph (4)(B) by adding after the citation
16 "section 310(a)" the phrase "or section 311(a)";
17 (3) in paragraph (4)(B) by adding "or certificate"
18 after "identification" where it appears;
19 (4) in paragraph (4)(B) by striking out "or" after
20 the semicolon; and
21 (5) by adding the following paragraphs after para-
22 graph (5) as follows:
23 "(6) possesses any drug manufacturing equipment,
24 tableting or encapsulating machines, or gelatin capsules

1 with intent to manufacture a controlled substance
2 except as authorized by this subchapter; or
3 "(7) manufactures, distributes, sells, or imports
4 any drug manufacturing equipment, tableting or encap-
5 sulating machines, or gelatin capsules knowing, or
6 having reasonable cause to believe, that they will be
7 used to manufacture a controlled substance except as
8 authorized by this subchapter.".
9 (f) Section 511(a) of the Controlled Substances Act (21
10 U.S.C. 881) is amended by adding a new subsection (9) as
11 follows:
12 "(9) all chemicals listed under section 311(d)
13 which have been imported, exported, manufactured,
14 possessed, distributed or intended to be distributed, in
15 violation of this title, as well as all conveyances and
16 equipment, including aircraft, vehicles, or vessels,
17 which are used, or intended for use, to transport, or in
18 any way facilitate the transportation, sale, receipt, pos-
19 session, or concealment of precursor chemicals and es-
20 sential chemicals in violation of this title, except as
21 provided for under paragraph (4) (A) and (B) above.".
22 (g) Section 102 (21 U.S.C. 802) of the Controlled Sub-
23 stances Act is amended—
24 (1) in paragraph (11), by adding after the words
25 "a controlled substance" the words "or a precursor

1 chemical or essential chemical listed under section
2 311(d)";
3 (2) by adding a new paragraph (31) as follows:
4 "(31) The term "precursor chemical" means a sub-
5 stance that may be used in the chemical process of manufac-
6 turing controlled substances and which is incorporated into
7 the final product and is therefore critical to its manufacture.";
8 and
9 (3) by adding a new paragraph (32) as follows:
10 "(32) The term "essential chemical" means a substance
11 that may be used in the chemical process of manufacturing
12 controlled substances as a solvent, reagent or catalyst.".
13 (h) Section 310 (21 U.S.C. 830) of the Controlled Sub-
14 stances Act is amended by adding the words, "ephedrine, or
15 phenylacetic acid" after each reference to piperidine in sub-
16 section (a).
17 (i) Section 506(A) (21 U.S.C. 876(a)) of the Controlled
18 Substances Act is amended by adding after the words "with
19 respect to controlled substances," the words "precursor
20 chemicals or essential chemicals,".
21 **SEC. 1564. DRUG PROGRAM BY ATTORNEY GENERAL.**
22 The Attorney General shall maintain an active program,
23 both domestic and international, to curtail the diversion of
24 precursor chemicals and essential chemicals used in the illicit
25 manufacture of controlled substances. This program shall in-

1 clude appropriate controls on the purchase, sale, importation
2 and exportation of these chemicals and development of coop-
3 erative efforts with foreign drug control authorities.

4 PART VII—ASSETS FORFEITURE
5 AMENDMENTS ACT OF 1986

6 **SEC. 1571. SHORT TITLE.**

7 This part may be cited as the "Asset Forfeiture Amend-
8 ments Act of 1986".

9 **SEC. 1572. DEPARTMENT OF JUSTICE ASSETS FORFEITURE**
10 **FUND.**

11 (a) Subsection (c)(1) of section 524 of title 28, United
12 States Code, is amended—
13 (1) by redesignating subparagraph (A) as subpara-
14 graph (A)(i); and
15 (2) by inserting the following after subparagraph
16 (A)(i) as so redesignated:
17 "(ii) the payment of non-case specific, program-re-
18 lated expenses for contracting for services related to
19 the processing of and accounting for forfeitures;".
20 (b) Subsection (c)(1)(E) of section 524 of title 28, United
21 States Code, is amended—
22 (1) by inserting "the Federal Bureau of Investiga-
23 tion, the United States Marshals Service," after "for
24 official use by"; and
25 (2) by striking out "and" after the semicolon.

1 (c) Subsection (c)(1)(F) of section 524 of title 28, United
2 States Code, is amended by striking out "Act." and inserting
3 "Act; and" in lieu thereof.
4 (d) Subsection (c)(1) of section 524 of title 28 of the
5 United States Code is amended by inserting the following
6 new subparagraph after subparagraph (F):
7 "(G) for the payment of non-case specific, forfeit-
8 ure program-related expenses for training and
9 printing.".
10 (e) Subsection (c)(8) of section 524 of title 28 of the
11 United States Code is amended by striking out "For fiscal
12 years 1984, 1985, 1986, and 1987" and inserting in lieu
13 thereof "Through fiscal year 1991".
14 **SEC. 1573. SUBSTITUTE ASSETS.**
15 (a) Section 1963 of title 18 is amended by adding at the
16 end thereof a new subsection, as follows:
17 "(n) If any of the property described in subsection (a), as
18 a result of any act of omission of the defendant—
19 "(1) cannot be located upon the exercise of due
20 diligence;
21 "(2) has been transferred or sold to, or deposited
22 with, a third party;
23 "(3) has been placed beyond the jurisdiction of the
24 court;
25 "(4) has been substantially diminished in value; or

1 "(5) has been commingled with other property
2 which cannot be divided without difficulty;
3 the court shall order the forfeiture of any other property of
4 the defendant up to the value of any property described in
5 paragraphs (1) through (5).".
6 (b) Section 413 of title II of the Comprehensive Drug
7 Abuse Prevention and Control Act of 1970 is amended—
8 (1) by redesignating subsection "(p)" as subsection
9 "(q)"; and
10 (2) by adding a new subsection (p) as follows:
11 "(p) If any of the property described in subsection (a), as
12 a result of any act or omission of the defendant—
13 "(1) cannot be located upon the exercise of due
14 diligence;
15 "(2) has been transferred or sold to, or deposited
16 with, a third party;
17 "(3) has been placed beyond the jurisdiction of the
18 court;
19 "(4) has been substantially diminished in value; or
20 "(5) has been commingled with other property
21 which cannot be divided without difficulty;
22 the court shall order the forfeiture of any other property of
23 the defendant up to the value of any property described in
24 paragraphs (1) through (5).".

1 **PART VIII—EXCLUSIONARY RULE**
2 **LIMITATION ACT OF 1986**

3 **SEC. 1581. SHORT TITLE.**

4 This part may be cited as the "Exclusionary Rule Limi-
5 tation Act of 1986".

6 **SEC. 1582. AMENDMENT TO CHAPTER 223 OF TITLE 18.**

7 (a) Chapter 223 of title 18, United States Code, is
8 amended by adding at the end thereof the following two sec-
9 tions:

10 **"§ 3508. Limitation of the fourth amendment exclusionary**
11 **rule**

12 "Evidence which is obtained as a result of a search or
13 seizure shall not be excluded in a proceeding in a court of the
14 United States on the ground that the search or seizure was in
15 violation of the fourth amendment to the Constitution of the
16 United States, if the search or seizure was undertaken in an
17 objectively, reasonable belief that it was in conformity with
18 the fourth amendment. A showing that evidence was ob-
19 tained pursuant to and within the scope of a warrant consti-
20 tutes prima facie evidence of such a reasonable belief, unless
21 the warrant was obtained through intentional and material
22 misrepresentation.

23 **"§ 3509. General limitation of the exclusionary rule**

24 "Except as specifically provided by statute or rule of
25 procedure, evidence which is otherwise admissible shall not

1 be excluded in a proceeding in a court of the United States
2 on the ground that the evidence was obtained in violation of a
3 statute or rule of procedure, or of a regulation issued pursu-
4 ant thereto.".

5 (b) The table of sections of chapter 223 of title 18,
6 United States Code, is amended by adding at the end thereof:

"3508. Limitation of the fourth amendment exclusionary rule.
"3509. General limitation of the exclusionary rule.".

7 Subtitle F—Public Awareness and Private Sector
8 Initiatives Act of 1986

9 **SEC. 1601. SHORT TITLE.**

10 This subtitle may be cited as the "Public Awareness
11 and Private Sector Initiatives Act of 1986".

12 **SEC. 1602. CONTRACT AUTHORITY.**

13 (a) Notwithstanding any other provision of law, the head
14 of an agency of the Federal Government is not required to
15 use competitive procedures in the procurement of property or
16 services by such agency if—

17 (1) such property or services are to be used pri-
18 marily for the purpose of conducting a public education
19 program to publicize the dangers of illegal drug use;

20 (2) at least 50 per cent of the reasonable value of
21 such property or services is donated, in cash payments
22 or in kind, to the Government for such purpose; and

1 (3) the agency procures such property or services
2 within 2 years after the date of enactment of this sub-
3 title.
4 (b) As used in subsection (a), the term "competitive pro-
5 cedures" has the same meaning as is provided in section
6 4(1)(6) of the Office of Federal Procurement Policy Act (41
7 U.S.C. 403(1)(6)).
8 (c) The provisions of this section shall take effect upon
9 the date of enactment of this subtitle and remain in effect for
10 a period of two years thereafter.

11 **SEC. 1603. AMENDMENT TO THE UNITED STATES INFORMA-**
12 **TION AND EDUCATIONAL EXCHANGE ACT OF**
13 **1948.**

14 (a) Section 501 of the United States Information and
15 Educational Exchange Act of 1948 is amended by inserting
16 in the second sentence after "Office" the following: "or any
17 information warning of the hazards of illegal drug use".
18 (b) The provisions of this section shall take effect upon
19 the date of enactment of this subtitle.

TITLE II—PENDING SENATE INITIATIVES AGAINST DRUGS

Subtitle A—Federal Drug Law Enforcement Agent Protection Act of 1986

SEC. 2101. SHORT TITLE.

This subtitle may be cited as the "Federal Drug Law Enforcement Agent Protection Act of 1986".

SEC. 2102. AMENDMENT TO THE CONTROLLED SUBSTANCES ACT.

Subsection (e) of section 511 of the Controlled Substances Act (21 U.S.C. 881(e)) is amended by—

(1) inserting after "(e)" the following: "(1)";

(2) redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively; and

(3) striking out the matter following subparagraph (D), as redesignated, and inserting in lieu thereof the following:

"(2)(A) The proceeds from any sale under subparagraph (B) of paragraph (1) and any moneys forfeited under this title shall be used to pay—

"(i) all property expenses of the proceedings for forfeiture and sale including expenses of seizure, maintenance of custody, advertising, and court costs; and

1 "(ii) awards of up to $100,000 to any individual
2 who provides original information which leads to the
3 arrest and conviction of a person who kills or kidnaps a
4 Federal drug law enforcement agent.
5 Any award paid for information concerning the killing or kid-
6 napping of a Federal drug law enforcement agent, as provid-
7 ed in clause (ii), shall be paid at the discretion of the Attorney
8 General.
9 "(B) The Attorney General shall forward to the Treas-
10 urer of the United States for deposit in accordance with sec-
11 tion 524(c) of title 28, United States Code, any amounts of
12 such moneys and proceeds remaining after payment of the
13 expenses provided in subparagraph (A).".

14 **Subtitle B—Common Carrier Operation Under**
15 **the Influence of Alcohol or Drugs**

16 **SEC. 2201. OFFENSE.**
17 (a) Part I of title 18, United States Code, is amended by
18 inserting after chapter 17 the following:

19 **"CHAPTER 17A—COMMON CARRIER OPERATION**
20 **UNDER THE INFLUENCE OF ALCOHOL OR DRUGS**

"Sec.
"341. Definitions.
"342. Operation of a common carrier under the influence of alcohol or drugs.
"343. Presumptions.

21 **"§ 341. Definitions**
22 "As used in this chapter, the term 'common carrier'
23 means a rail carrier, a sleeping car carrier, a bus transporting

1 passengers in interstate commerce, a water common carrier,
2 and an air common carrier.

3 **"§ 342. Operation of a common carrier under the influ-**
4 **ence of alcohol or drugs**

5 "Whoever operates or directs the operation of a
6 common carrier while under the influence of alcohol or drugs,
7 shall be imprisioned not more than five years or fined not
8 more than $10,000, or both.

9 **"§ 343. Presumptions**

10 "For purposes of this chapter—
11 "(1) an individual with a blood alcohol content of
12 .10 or more shall be conclusively presumed to be under
13 the influence of alcohol; and
14 "(2) an individual shall be conclusively presumed
15 to be under the influence of drugs if the quantity of the
16 drug in the system of the individual would be sufficient
17 to affect the perception, mental processes, or motor
18 functions of the average individual.".

19 (b) The table of chapters for part I of title 18, United
20 States Code, is amended by adding after the item for chapter
21 17 the following:

"17A. Common Carrier Operation Under the Influence of Alcohol or Drugs..... 341".

Subtitle C—Controlled Substances Technical Amendments

SEC. 2301. TECHNICAL AMENDMENTS.

(a) Paragraph (14) of section 102 of the Controlled Substances Act (21 U.S.C. 802(14)) is amended in the second and third sentences by striking out the word "the" after the words "the term 'isomer' means" and inserting in lieu thereof "any".

(b) Paragraph (4) of subsection (a) of schedule II of the Controlled Substances Act (21 U.S.C. 812) is amended to read as follows:

> "(4) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed; cocaine, its salts, optical and geometric isomers, and salts of isomers; ecgonine, its derivatives, their salts, isomers, and salts of isomers; or any compound, mixture, or preparation which contains any quantity of any of the substances referred to in this paragraph.".

(c) Subsection (b) of section 405A of the Controlled Substances Act (21 U.S.C. 845a(b)) is amended by inserting "parole" after "(2) at least three times any special".

(d) Section 503(a) of the Controlled Substances Act (21 U.S.C. 873(a)) is amended by—

(1) striking out "and" at the end of paragraph (5);

1 (2) striking out the period at the end of paragraph
2 (6) and inserting in lieu thereof "; and"; and
3 (3) adding at the end thereof the following:
4 "(7) notwithstanding any other provision of law,
5 enter into contractual agreements with State and local
6 law enforcement agencies to provide for cooperative
7 enforcement and regulatory activities under this Act.".
8 (e) Section 508 of the Controlled Substances Act (21
9 U.S.C. 878) is amended by—
10 (1) inserting "(a)" before "Any officer or
11 employee";
12 (2) inserting after "Drug Enforcement Adminis-
13 tration" the following: "or any State or local law en-
14 forcement officer"; and
15 (3) adding at the end thereof the following new
16 subsection:
17 "(b) State and local law enforcement officers performing
18 functions under this section shall not be deemed Federal em-
19 ployees and shall not be subject to provisions of law relating
20 to Federal employees, except that such officers shall be sub-
21 ject to section 3374(c) of title 5, United States Code.".
22 (f) Paragraph (3) of section 1010(b) of the Controlled
23 Substances Import and Export Act (21 U.S.C. 960(b)(3)) is
24 amended by striking out ", except as provided in paragraph
25 (4)".

1 **Subtitle D—Indian Juvenile Alcohol and Drug**
2 **Abuse Prevention**

3 **SEC. 2401. SHORT TITLE.**

4 This subtitle may be cited as the "Indian Youth Alcohol
5 and Substance Abuse Prevention Act".

6 **PART I—INTERDEPARTMENTAL**
7 **AGREEMENT**

8 **SEC. 2411. AGREEMENT.**

9 (a) The Secretary of Health and Human Services shall
10 take action to enter into a written agreement with the Secre-
11 tary of the Interior to—
12 (1) coordinate the Bureau of Indian Affairs and
13 Indian Health Service Indian youth alcohol and sub-
14 stance abuse programs existing on the date of enact-
15 ment of this Act and programs established by this Act;
16 (2) identify Federal, State, local, and private re-
17 sources to combat Indian youth alcohol and substance
18 abuse;
19 (3) delineate the responsibilities of the Bureau of
20 Indian Affairs and the Indian Health Service to coordi-
21 nate Indian youth alcohol and substance abuse-related
22 services at each administrative level;
23 (4) authorize the Bureau of Indian Affairs agency
24 superintendents and education superintendents and the

1 Indian Health Service service unit directors to enter
2 into agreements described in section 2412; and
3 (5) provide for biennial review of such agreement
4 of the Secretary of Health and Human Services and
5 the Secretary of the Interior.
6 (b) The agreement under subsection (a) shall be submit-
7 ted to Congress and published in the Federal Register within
8 90 days of the date of enactment of this Act.
9 **SEC. 2412. COORDINATION OF RESOURCES AND SERVICES.**
10 (a) After publication in the Federal Register of the
11 agreement entered into under section 2411, any Indian tribe
12 may submit a written request to the Secretary of Health and
13 Human Services to coordinate resources and services related
14 to Indian youth alcohol and substance abuse prevention,
15 identification, education, treatment, and followup care.
16 (b) Within 90 days of receipt of a written request of any
17 Indian tribe submitted under subsection (a), the Secretary of
18 Health and Human Services, in consultation with the Secre-
19 tary of the Interior, shall—
20 (1) enter into an agreement with such tribe to
21 identify and coordinate the responsibilities and referral
22 resources of all agencies and programs providing youth
23 alcohol and substance abuse-related resources or serv-
24 ices within the service area of such tribe; and

1 (2) review and modify such agreement, as neces-
2 sary, to reflect changes in the availability of resources
3 and services related to youth alcohol and substance
4 abuse prevention, identification, education, treatment,
5 and followup care.
6 (c) Any contracts, grants, or cooperative agreements
7 made to carry out subsection (b) shall be consistent with ex-
8 isting laws and regulations.

9 **PART II—EDUCATION**

10 **SEC. 2421. BUREAU OF INDIAN AFFAIRS SCHOOLS.**

11 (a) The Secretary of the Interior shall require Bureau of
12 Indian Affairs schools, and schools operated under any con-
13 tract entered into with the Bureau of Indian Affairs, to pro-
14 vide a program of instruction regarding alcohol and substance
15 abuse to students in kindergarten and grades 1 through 12.
16 (b) The program required under subsection (a) shall be
17 developed in consultation with the Indian tribe or tribes or
18 school board or boards designated by such tribe or tribes that
19 will be served by such program and with appropriate educa-
20 tion and health personnel at the local level.
21 (c) Schools providing programs of instruction under sub-
22 section (a) shall include family participation in the instruction
23 where feasible.

1 SEC. 2422. NEWSLETTERS

2 The Secretary of Health and Human Services shall,
3 within 9 months of the date of enactment of this Act, begin
4 publishing an alcohol and substance abuse newsletter in coop-
5 eration with the Department of the Interior and the Depart-
6 ment of Education which shall report on Indian alcohol and
7 substance abuse projects and programs. The newsletter shall
8 be published once in each calendar quarter and shall be circu-
9 lated without charge to schools, tribal offices, Bureau of
10 Indian Affairs agency and area offices, Indian Health Service
11 area and service unit offices, Indian Health Service alcohol
12 programs, and other entities providing alcohol and substance
13 abuse-related services or resources to Indian people.

14 SEC. 2423. FELLOWSHIPS FOR INDIAN STUDENTS.

15 Subsection (a) of section 423 of the Indian Education
16 Act (20 U.S.C. 3385b(a)) is amended by inserting "clinical
17 psychology," after "medicine,".

18 PART III—FAMILY AND SOCIAL SERVICES

19 SEC. 2431. TRAINING AND INSTRUCTION.

20 (a) Any initial training program for new community
21 health representatives and community health aids funded
22 under the authority of the Act of November 2, 1921 (25
23 U.S.C. 13) shall include not less than 40 hours of instruction
24 in the area of alcohol and substance abuse and shall include
25 training in crisis intervention and family relations in the con-
26 text of alcohol and substance abuse, youth alcohol and sub-

1 stance abuse, and the causes and effects of fetal alcohol syn-
2 drome.
3 (b)(1) The Secretary of Health and Human Services
4 shall, either directly or through contract, make available in-
5 structions in the area of alcohol and substance abuse, includ-
6 ing instruction in crisis intervention and family relations in
7 the context of alcohol and substance abuse, youth alcohol and
8 substance abuse, and the causes and effects of fetal alcohol
9 syndrome to—
10 (A) personnel at schools operated under any con-
11 tract entered into the Bureau of Indian Affairs,
12 (B) personnel of programs operated under any
13 contract entered into with the Indian Health Service,
14 (C) personnel of the Bureau of Indian Affairs,
15 (D) personnel of the Indian Health Service, and
16 (E) supervisors of emergency shelters described in
17 section 2441(b)(1),
18 who are responsible for, or work with, Indian youth.
19 (2) Upon request, the Secretary of Health and Human
20 Services shall offer the instruction described in paragraph (1)
21 to—
22 (A) members of school boards or designated school
23 personnel who—

1 (i) govern, or are associated with, any school
2 at which at least 20 percent of the enrollment
3 consists of Indian students, and
4 (ii) are responsible for, or work with, Indian
5 youth;
6 (B) personnel of urban Indian centers, which are
7 funded pursuant to section 4 of the Indian Health Care
8 Improvement Act (25 U.S.C. 1603), who are responsi-
9 ble for, or work with, Indian youth;
10 (C) judges of tribal courts and courts of Indian of-
11 fenses;
12 (D) personnel associated with any tribal, State, or
13 Federal Court who are responsible for, or work with,
14 Indian youth;
15 (E) Bureau of Indian Affairs law enforcement per-
16 sonnel; and
17 (F) members of local community and tribal organi-
18 zations or educational or health institutions responsible
19 for, or working with, Indian youth.
20 (3) The Secretary of Health and Human Services shall
21 provide the instruction described in paragraph (1) within inte-
22 grated programs for all participants in local Indian communi-
23 ties, whenever practicable.
24 (4) The Secretary of Health and Human Services—

1 (A) may provide the instruction described in para-
2 graph (1) at no expense to the participants or to the
3 employers of the participants, or
4 (B) may charge a fee for the provision of such in-
5 struction to a participant.
6 If such a fee is charged, the amount of such fee shall not
7 exceed the direct costs incurred by the Secretary of Health
8 and Human Services in providing such instruction to the
9 participant.
10 (5) The Secretary of Health and Human Services shall
11 coordinate the planning of the instruction described in para-
12 graph (1) with the Secretary of the Interior.

13 **PART IV—LAW ENFORCEMENT**

14 **SEC. 2441. PLACEMENT; LICENSING OF SHELTERS.**

15 (a) The Secretary of the Interior, in consultation with
16 the Attorney General of the United States, shall—
17 (1) promulgate guidelines under which any tribal
18 or Federal law enforcement officer shall, for the benefit
19 of any Indian youth arrested for an offense in which
20 the abuse of alcohol or substances was a contributing
21 factor, place such Indian youth in an emergency shel-
22 ter licensed under subsection (b), a community-based
23 alcohol or substance abuse treatment facility, or any
24 other medical or detention facility, and

1 (2) make these guidelines available to any State
2 which exercises criminal jurisdiction over any part of
3 Indian country pursuant to Federal law.
4 (b)(1) By no later than the date that is 210 days after
5 the date of enactment of this Act, the Secretary of Health
6 and Human Services, with the concurrence of the Secretary
7 of the Interior, shall establish standards for the licensing of
8 temporary emergency shelters to house, whenever appropri-
9 ate, Indian youth apprehended by any law enforcement offi-
10 cer for any offense in which the abuse of alcohol or sub-
11 stances was a contributing factor.
12 (2)(A) Indian tribes may elect to adopt the standards
13 prescribed by the Secretary of Health and Human Services
14 under paragraph (1) and issue licenses to temporary emer-
15 gency shelters that qualify under such standards. If an Indian
16 tribe does not elect to perform the function of licensing tem-
17 porary emergency shelters in accordance with such stand-
18 ards, such function shall be performed by the Secretary of
19 Health and Human Services.
20 (B) Any license issued under subparagraph (A) shall be
21 subject to renewal on an annual basis and, if an emergency
22 shelter fails at any time to comply with the standards pre-
23 scribed under paragraph (1), such license shall be revoked by
24 the Indian tribe that issued such license or, if the Indian tribe
25 fails to act, by the Secretary of Health and Human Services.

1 (3) An emergency shelter may be licensed under para-
2 graph (2) only if the individual supervising such shelter has
3 completed the training described in section 2431(b)(1).

4 **SEC. 2442. TRIBAL COURTS; SENTENCING AND FINES.**

5 Paragraph (7) of section 202 of the Act of April 11,
6 1969 (25 U.S.C. 1302) is amended by striking out "for a
7 term of six months and a fine of $500, or both" and inserting
8 in lieu thereof "for a term of one year or a fine of $5,000, or
9 both".

10 **SEC. 2443. MODEL INDIAN JUVENILE CODE.**

11 The Secretary of the Interior, either directly or by con-
12 tract, shall provide for the development of a Model Indian
13 Juvenile Code which shall—

14 (1) be consistent with the Juvenile Justice and
15 Delinquency Prevention Act of 1974, and

16 (2) include provisions relating to the disposition of
17 cases involving Indian youth arrested or detained by
18 Bureau of Indian Affairs or tribal law enforcement per-
19 sonnel for alcohol or substance related offenses.

20 The development of such Model Code shall be accomplished
21 in cooperation with Indian organizations having an expertise
22 or knowledge in the field of law enforcement and judicial pro-
23 cedure and in consultation with Indian tribes. Upon comple-
24 tion of such Model Code, the Secretary of the Interior shall

1 make copies of such Model Code available to each Indian
2 tribe.

3 **SEC. 2444. LAW ENFORCEMENT SERVICES.**

4 (a) For the purpose of maintaining law and order and of
5 protecting persons and property within Indian country
6 (within the meaning of section 1151 of title 18, United States
7 Code), the Secretary of the Interior (hereafter in this section
8 referred to as the "Secretary") may charge any officer or
9 employee of the Department of the Interior with law enforce-
10 ment responsibilities and may, to the extent the Secretary
11 deems appropriate, authorize such officer or employee to—

12 (1) carry firearms within Indian country and while
13 transporting prisoners or on other official duties outside
14 Indian country;

15 (2) secure and execute or serve within Indian
16 country any order, warrant, subpoena, or other process
17 which is issued under the authority of the United
18 States or of an Indian tribe;

19 (3) make an arrest without a warrant—

20 (A) for any offense committed against the
21 United States within Indian country that is com-
22 mitted in the presence of the officer or employee,

23 (B) for any offense committed against the
24 United States within Indian country that consti-
25 tutes a felony if the officer or employee has rea-

1 sonable grounds to believe that the person to be
2 arrested has committed or is committing a felony,
3 or
4 (C) for any offense committed within Indian
5 country against an Indian tribe that has commis-
6 sioned the officer or employee to enforce the laws
7 of the Indian tribe if the officer or employee has
8 reasonable grounds to believe that the person to
9 be arrested is committing the offense in the pres-
10 ence or view of the officer or employee;
11 (4) offer and pay a reward for services or informa-
12 tion assisting in the detection or investigation of the
13 commission of an offense committed within Indian
14 country or in the apprehension of an offender;
15 (5) make inquiries, and administer to, or take
16 from, any person an oath, affirmation, or affidavit, con-
17 cerning any matter which is material or relevant to the
18 enforcement within Indian country of the laws of the
19 United States or of any Indian tribe that has commis-
20 sioned the officer to enforce the laws of the Indian
21 tribe;
22 (6) upon request, assist (with or without reim-
23 bursement) any Federal, tribal, State, or local law en-
24 forcement agency in the enforcement of the laws, ordi-
25 nances, or regulations which they administer or en-

1 force, but no Indian tribe, State, or political subdivision
2 shall be deprived, by this section or by any such re-
3 quest, of any civil or criminal jurisdiction it may have;
4 and
5 (7) perform any other law enforcement duty that
6 the Secretary may designate.
7 (b)(1) The Secretary may utilize by agreements, with or
8 without reimbursement, such personnel, services, and facili-
9 ties of any Federal, tribal, State, or local governmental
10 agency as the Secretary deems necessary and appropriate for
11 effective enforcement of any Federal or tribal laws in Indian
12 country. The Secretary may commission law enforcement
13 personnel of such agencies to exercise such of the authorities
14 set out in subsection (a) as the Secretary deems appropriate.
15 Appropriate representatives of Federal agencies are hereby
16 authorized to enter into and carry out such agreements with
17 the Secretary or with duly authorized tribal officials.
18 (2) While acting in the capacity of a person commis-
19 sioned by the Secretary pursuant to this section, any person
20 who is not otherwise a Federal employee, shall be deemed a
21 Federal employee for purposes of—
22 (A) section 3374(c)(2) of title 5, United States
23 Code, and
24 (B) sections 111 and 1114 of title 18, United
25 States Code.

1 (3) For purposes of subchapter III of chapter 81 of title
2 5, United State Code, an employee of a tribal, State, or local
3 governmental agency shall be considered an eligible officer
4 while acting in the capacity of an officer commissioned pursu-
5 ant to this section.

6 (c) The Secretary may make and publish such rules and
7 regulations as the Secretary deems necessary or proper for
8 officers or employees of the Department of the Interior
9 charged with law enforcement responsibilities and for em-
10 ployees of any Federal, tribal, State, or local governmental
11 agency whose services are being utilized pursuant to subsec-
12 tion (b).

13 (d)(1) Nothing in this section shall be construed to inval-
14 idate any delegations of authority or law enforcement com-
15 missions issued by the Secretary, or any delegate of the Sec-
16 retary, prior to the date of enactment of this Act.

17 (2) The authorities provided by this section are in addi-
18 tion to, and not in derogation of, any existing authorities.
19 Nothing in this section shall be construed to alter in any way
20 the law enforcement, or investigative, or judicial authorities
21 of any Indian tribe, State, or political subdivision thereof, or
22 of any department, agency, court, or official of the United
23 States other than the Department of the Interior and agen-
24 cies or officials thereof.

1 (e) Notwithstanding section 5901(a) of title 5, United
2 States Code, the uniform allowance for Bureau of Indian
3 Affairs law enforcement officers shall not exceed $400
4 annually.

5 PART V—YOUTH ALCOHOL AND SUBSTANCE 6 ABUSE TREATMENT AND REHABILITA- 7 TION.

8 SEC. 2451. STUDY.

9 The Secretary of Health and Human Services, in con-
10 sultation with Indian tribes, shall, within 1 year of the date of
11 enactment of this Act, complete a study to determine—

12 (1) the scope of the Indian youth alcohol and sub-
13 stance abuse problem and its estimated financial and
14 human costs;

15 (2) the size of the Indian youth population in need
16 of residential alcohol and substance abuse treatment;

17 (3) the location of residential facilities at which
18 such treatment is available or could be made available;
19 and

20 (4) the cost of providing such treatment.

21 SEC. 2452. COST ESTIMATES.

22 When the budget for the Indian Health Service for each
23 fiscal year beginning with fiscal year 1989 is submitted to the
24 Congress, the Secretary of Health and Human Services shall
25 submit to the appropriate committees of the Congress, a de-

1 tailed estimate of the cost of providing, under existing au-
2 thority, comprehensive Indian youth alcohol and substance
3 abuse treatment services, including detoxification and coun-
4 seling services, and followup care in Indian Health Service
5 facilities and in health facilities operated under any contract
6 entered into with the Indian Health Service.

7 **SEC. 2453. USE OF EXISTING FACILITIES.**

8 (a)(1) The Secretary of Health and Human Services
9 shall, in consultation with Indian tribes, identify and utilize
10 whenever possible existing—

11 (A) facilities owned by the Federal Government or
12 by an Indian tribe, or

13 (B) local community or private hospitals or other
14 appropriate facilities,

15 that would be suitable for use as residential alcohol and sub-
16 stance abuse treatment centers for Indian youth in order to
17 meet the needs identified in the study conducted under sec-
18 tion 2451.

19 (2) Any facility described in paragraph (1) may be used
20 under such terms and conditions as may be agreed upon by
21 the Secretary of Health and Human Services and the agency,
22 or the local government unit, having responsibility for the
23 facility.

24 (3) The Secretary of Health and Human Services may,
25 directly or by contract, renovate any federally owned or fed-

1 erally funded facility described in paragraph (1). Any such
2 renovation shall conform with such terms and conditions as
3 have been agreed upon under paragraph (2).

4 (b) The Secretary of the Interior shall identify for the
5 Secretary of Health and Human Services any existing
6 Bureau of Indian Affairs facilities which may be suitable for
7 residential alcohol and substance abuse treatment centers for
8 Indian youth.

9 (c) If the facilities identified and utilized under subsec-
10 tions (a) and (b) do not adequately meet the treatment needs
11 identified in the study conducted under section 2451, the
12 Secretary of Health and Human Services shall—

13 (1) begin including requirements for new construc-
14 tion on the construction priority list which is published
15 annually in the Federal Register, and

16 (2) within 2 years of the date of enactment of this
17 Act, advise the appropriate committees of Congress as
18 to the cost required to construct such facilities as the
19 Secretary of Health and Human Services finds neces-
20 sary to meet such treatment needs.

21 PART VI—MISCELLANEOUS PROVISIONS

22 **SEC. 2461. DEFINITIONS.**

23 For purposes of this subtitle—

24 (1)(A) The term "Indian tribe" means any Indian
25 tribe, band, nation, or other organized group or com-

1 munity of Indians, including any Alaskan Native vil-
2 lage or regional or village corporation as defined in or
3 established pursuant to the Alaska Claims Settlement
4 Act (43 U.S.C. 1601, et seq.) which is recognized as
5 eligible for special programs and services provided by
6 the United States to Indians because of their status as
7 Indians.

8 (B) For purposes of section 2412, the term
9 "Indian tribe" includes an urban center (within the
10 meaning of section 4 of the Indian Health Care Im-
11 provement Act (25 U.S.C. 1603)).

12 (2) The term "agency" means the local adminis-
13 trative entity of the Bureau of Indian Affairs, operated
14 directly or by contract, serving one or more Indian
15 tribes within a defined geographic area.

16 (3) The term "service unit" means the local ad-
17 ministrative entity of the Indian Health Service, oper-
18 ated directly or by contract, serving one or more
19 Indian tribes within a defined geographic area.

20 (4) The term "youth" means a person who is 19
21 years or younger.

22 **SEC. 2462. REGULATIONS.**

23 The Secretary of the Interior and the Secretary of
24 Health and Human Resources are authorized to prescribe

1 such regulations as may be necessary to carry out the provi-
2 sions of this subtitle.

3 **SEC. 2463. ALLOCATIONS.**

4 The funds appropriated under the authority of this sub-
5 title shall be allocated on the basis of need.

6 **SEC. 2464. AUTHORIZATION OF APPROPRIATIONS.**

7 (a) There are authorized to be appropriated such sums
8 as may be necessary to carry out the provisions of this sub-
9 title.

10 (b) Notwithstanding any other provision of law, the re-
11 ceipts from any fees charged under section 2431(b)(4)(B) for
12 the provision of instruction shall, in lieu of being deposited in
13 the general fund of the Treasury of the United States, be
14 credited as a refund to the appropriation from which the ex-
15 penses of such instruction were paid.

16 **Subtitle E—Controlled Substance Analogs'**
17 **Enforcement Act of 1986**

18 **SEC. 2501. SHORT TITLE.**

19 This subtitle may be cited as the "Controlled Substance
20 Analogs' Enforcement Act of 1986".

21 **SEC. 2502. OFFENSE.**

22 Part D of the Controlled Substances Act is amended by
23 adding after section 403 the following new section 403A (21
24 U.S.C. 843):

1 **"§ 403A. Prohibited acts D**

2 Any person who knowingly or internationally manufac-
3 tures with intent to distribute, possesses with intent to dis-
4 tribute, or distributes a controlled substance analog all or
5 part of which substance is intended for human consumption
6 shall be fined not more than $250,000, or imprisoned not
7 more than fifteen years, or both. Any person who knowingly
8 or intentionally possesses a controlled substance analog all or
9 part of which substance is intended for human consumption
10 shall be fined not more than $25,000, or imprisoned not more
11 than one year, or both. This section does not apply to a
12 person who manufactures, possesses, or distributes a sub-
13 stance in conformance with the provisions of an approved
14 new drug application or an exemption for investigational use
15 within the meaning of section 505 of the Federal Food,
16 Drug, and Cosmetic Act (21 U.S.C. 355). For purposes of
17 this section, section 505 of the Federal Food, Drug, and Cos-
18 metic Act (21 U.S.C. 355) shall be applicable to the intro-
19 duction or delivery for introduction of any new drug into
20 intrastate, interstate, or foreign commerce.".

21 **SEC. 2503. DEFINITION.**

22 Section 102 of the Controlled Substance Act (21 U.S.C.
23 802) is amended by adding at the end thereof the following
24 new paragraphs:

25 "(31) The term 'controlled substance analog' as used in
26 section 403A means a substance other than a controlled sub-

1 stance that has a chemical structure substantially similar to
2 that of a controlled substance in schedule I or II or that was
3 specifically designed to produce an effect substantially similar
4 to that of a controlled substance in schedule I or II. Exam-
5 ples of chemical classes in which controlled substance ana-
6 logs are found include, but are not limited to, the following:
7 phenethylamines, N-substituted piperidines, morphinans, eco-
8 gonines, quinazolinones, substituted indoles, and arylcycloal-
9 kylamines.

10 "(32) The term 'human consumption' includes applica-
11 tion, injection, inhalation, or ingestion.".

12 **SEC. 2504. TECHNICAL AMENDMENT.**

13 The analysis of part D of the Controlled Substances Act
14 is amended by inserting after the item relating to section 403
15 the following:

"403A Prohibited acts D.".

16 Subtitle F—Department of Defense Drug
17 Interdiction

18 **SEC. 2601. DRUG ENFORCEMENT EQUIPMENT, OPERATIONS,**
19 **AND INTELLIGENCE GATHERING.**

20 (a) There are hereby authorized to be appropriated to
21 the Department of Defense for fiscal year 1987, the sum of
22 $212,115,000 as follows:

23 (1) For procurement, refurbishment, or upgrading
24 of aircraft, radar, and related systems, $187,500,000.

1 (2) For operation and maintenance of aircraft used
2 in carrying out drug interdiction missions,
3 $12,615,000.
4 (3) For enhanced intelligence collection activities
5 concerning illegal importation into the United States of
6 drugs originating in South America, $12,000,000.
7 (b) The Secretary of Defense shall make available, sub-
8 ject to the provisions of chapter 18 of title 10, United States
9 Code, to such agencies of the Federal Government as may be
10 directed by the Chairman of the National Drug Enforcement
11 Policy Board established by the National Narcotics Act of
12 1984 any aircraft, radar, and related equipment procured, re-
13 furbished, or upgraded with funds appropriated pursuant to
14 authorizations in subsection (a).
15 (c) Each agency to which aircraft, radar, or related
16 equipment are made available pursuant to subsection (b),
17 shall have the responsibility for operation and maintenance
18 costs attributable to such aircraft, radar, or related equip-
19 ment. The responsibility for such costs shall commence upon
20 receipt by such agency of such aircraft, radar, or related
21 equipment, or, in the case of radar or equipment installed
22 other than on aircraft, upon the completion of the installation
23 of such radar and equipment.
24 (d) Amounts authorized to be appropriated to the De-
25 partment of Defense for fiscal year 1987 or any prior fiscal

1 year for procurement of equipment for the enhancement of
2 authorized drug enforcement activities of the Department of
3 Defense under subsection (a) or any other provision of law
4 may be obligated and expended for such purpose only if the
5 Secretary of Defense determines that the equipment—
6 (1) is fully supportable within the existing service
7 support system of the Department of Defense; and
8 (2) reasonably relates to an existing military, war
9 reserve, or mobilization requirement.

10 **SEC. 2602. COAST GUARD ACTIVITIES.**

11 (a) Unless required elsewhere in law, the amounts ap-
12 propriated to the Department of Defense for fiscal year 1987,
13 $15,000,000 shall be transferred to the Secretary of Trans-
14 portation and shall be available only for the purpose of carry-
15 ing out section 379 of title 10, United States Code (as added
16 by subsection (b)), relating to the assignment of members of
17 the Coast Guard to duty on naval vessels.

18 (b)(1) Chapter 18 of title 10, United States Code, is
19 amended by inserting after section 378 the following new
20 section:

21 **"§ 379. Assignment of personnel to naval vessels for drug**
22 **enforcement purposes**

23 "(a) The Secretary of Defense and the Secretary of
24 Transportation may provide that there be assigned on board
25 surface naval vessels at sea in a drug-interdiction area mem-

1 bers of the Coast Guard who are trained in law enforcement
2 and have power to arrest, search, and seize property and
3 persons suspected of violations of law.

4 "(b) Members of the Coast Guard assigned to duty on
5 board naval vessels under this section shall perform such law
6 enforcement functions (including drug-interdiction functions)
7 as—

8 "(1) may be agreed upon by the Secretary of De-
9 fense and the Secretary of Transportation; and

10 "(2) are otherwise within the jurisdiction of the
11 Coast Guard.

12 "(c) No fewer than 500 active duty personnel of the
13 Coast Guard shall be available for assignment each fiscal
14 year to duty as provided in subsection (a).

15 "(d) As used in this section, the term 'drug-interdiction
16 area' means in area outside the land area of the United
17 States in which the Secretary of Defense (in consultation
18 with the Attorney General) determines that activities involv-
19 ing smuggling of drugs into the United States are ongoing.".

20 (2) The table of sections at the beginning of such chap-
21 ter is amended by inserting after the item relating to section
22 378 the following new item:

"378. Assignment of personnel to naval vessels for drug enforcement purposes.".

23 (c)(1) Section 1421 of the Department of Defense Au-
24 thorization Act, 1986 (Public Law 99–145; 99 Stat. 750) is
25 repealed.

1 (2) The repeal made by paragraph (1) shall take effect
2 on October 1, 1986.

3 **SEC. 2603. REPORTS ON DEPARTMENT OF DEFENSE DRUG**
4 **CONTROL ACTIVITIES.**

5 (a) Not later than March 1, 1987, the National Drug
6 Enforcement Policy Board shall submit a report to the Com-
7 mittees on Armed Services of the Senate and the House of
8 Representatives on the manner and the extent to which the
9 Department of Defense should be involved in United States
10 law enforcement activities relating to the control and reduc-
11 tion of drug abuse. The Board shall include in such report—
12 (1) its recommendation for a 5-year funding plan
13 for the participation of the Department of Defense in
14 United States drug law enforcement activities; and
15 (2) a description of the functions which members
16 of the Armed Forces under the jurisdiction of the Sec-
17 retary of Defense may appropriately perform in the na-
18 tional effort to control and reduce drug abuse, includ-
19 ing the interdiction of illegal drugs.

20 (b) Not later than December 1, 1986, the Secretary of
21 Defense, in consultation with the National Drug Enforce-
22 ment Policy Board and the Department of Education, shall
23 submit to the Committees on Armed Services of the Senate
24 and the House of Representatives a report containing a dis-
25 cussion of (1) the extent to which youth enrolled in schools

1 operated by the Department of Defense for dependent mem-
2 bers of the Armed Forces are receiving education on drug
3 and substance abuse, (2) the types of drug education pro-
4 grams that are currently being provided in such schools, (3)
5 whether additional drug education programs are needed in
6 such schools, and (4) the extent to which drug education pro-
7 grams for youth in grades K through 12 include or should
8 include preventative peer counseling classes.

9 **SEC. 2604. DRIVING WHILE IMPAIRED BY DRUG INTOXICA-**
10 **TION TO BE PUNISHABLE UNDER THE UNIFORM**
11 **CODE OF MILITARY JUSTICE.**

12 Section 911 of title 10, United States Code, is amended
13 by striking out "drunk," and inserting in lieu thereof "drunk
14 or while impaired by a substance described in section 912a(b)
15 of this title (article 112a(b)),".

16 **SEC. 2605. DRUG INTERDICTION ASSISTANCE TO CIVILIAN**
17 **LAW ENFORCEMENT OFFICIALS.**

18 Section 374(a) of title 10, United States Code, is
19 amended by striking out the period at the end and inserting
20 in lieu thereof "or with respect to assistance that such
21 agency is authorized to furnish to any foreign government
22 which is involved in the enforcement of similar laws.".

1 **Subtitle G—Money Laundering Crimes Act of**
2 **1986**

3 **SEC. 2701. SHORT TITLE.**

4 This subtitle may be cited as the "Money Laundering
5 Crimes Act of 1986".

6 **SEC. 2702. NEW OFFENSE FOR LAUNDERING OF MONETARY**
7 **INSTRUMENTS.**

8 (a) Chapter 95 of title 18, United States Code, is
9 amended by adding at the end thereof the following new
10 section:

11 **"§ 1956. Laundering of monetary instruments**

12 "(a)(1) Whoever, knowing that the property involved in
13 a financial transaction represents the proceeds of some form
14 of unlawful activity, conducts or attempts to conduct such a
15 financial transaction which in fact involves the proceeds of
16 specified unlawful activity—

17 "(A) with the intent to facilitate the carrying on
18 of specified unlawful activity; or

19 "(B) knowing that the transaction is designed in
20 whole or in part—

21 "(i) to conceal or disguise the nature, the lo-
22 cation, the source, the ownership, or the control
23 of the proceeds of specified unlawful activity; or

24 "(ii) to avoid a transaction reporting require-
25 ment under State or Federal law,

1 shall be sentenced to a fine of not more than $250,000 or
2 twice the value of the property involved in the transaction,
3 whichever is greater, or imprisonment for not more than 20
4 years, or both.

5 "(2) Whoever transports or attempts to transport a
6 monetary instrument or funds from a place in the United
7 States to or through a place outside the United States or to a
8 place in the United States from or through a place outside
9 the United States—

10 "(A) with the intent to facilitate the carrying on
11 of specified unlawfully activity; or

12 "(B) knowing that the monetary instrument or
13 funds involved in the transportation represent the pro-
14 ceeds of some form of unlawful activity and knowing
15 that such transportation is designed in whole or in
16 part—

17 "(i) to conceal or disguise the nature, the lo-
18 cations, the source, the ownership, or the control
19 of the proceeds of specified unlawful activity; or

20 "(ii) to avoid a transaction reporting require-
21 ment under State or Federal law,

22 shall be sentenced to a fine of $250,000 or twice the value of
23 the monetary instrument or funds involved in the transporta-
24 tion, whichever is greater, or imprisonment for not more than
25 20 years, or both.

1 "(3) Whoever conducts or attempts to conduct a finan-
2 cial transaction that in whole or in part involves the proceeds
3 of specified unlawful activity with intent to violate or facili-
4 tate a violation of section 7201 or 7206 of the Internal Reve-
5 nue Code of 1954 shall be sentenced to a fine of not more
6 than $250,000 or twice the value of the monetary instrument
7 or funds involved in the transaction, whichever is greater, or
8 imprisonment for not more than 20 years, or both.
9 "(b) Whoever conducts or attempts to conduct a trans-
10 action described in paragraph (1) or (3) of subsection (a) or a
11 transportation described in paragraph (2) of subsection (a) is
12 liable to the United States for a civil penalty of not more than
13 the greater of—
14 "(1) the value of the property, funds, or monetary
15 instruments involved in the transaction; or
16 "(2) $10,000.
17 "(c) As used in this section—
18 "(1) the phrase 'knowing that the property in-
19 volved in a financial transaction represents the pro-
20 ceeds of some form of unlawful activity' means that the
21 person knew the property involved in the transaction
22 represented proceeds from some form, though not nec-
23 essarily which form, of activity that constitutes a
24 felony under State or Federal law, regardless of

1 whether or not such activity is specified in paragraph
2 (7);
3 "(2) the term 'conducts' includes but is not limited
4 to initiating, concluding, or participating in initiating,
5 or concluding a transaction;
6 "(3) the term 'transaction' includes but is not lim-
7 ited to a purchase, sale, loan, pledge, gift, transfer, de-
8 livery, or other disposition, and with respect to a finan-
9 cial institution includes but is not limited to a deposit,
10 withdrawal, transfer between accounts, exchange of
11 currency, loan, extension of credit, purchase or sale of
12 any stock, bond, certificate of deposit, or other mone-
13 tary instrument, or any other payment, transfer, or de-
14 livery by, through, or to a financial institution, by
15 whatever means effected;
16 "(4) the term 'financial transaction' means a
17 transaction involving the movement of funds by wire or
18 other means or involving one or more monetary instru-
19 ments, which in any way or degree affects interstate or
20 foreign commerce, or a transaction involving the use of
21 a financial institution which is engaged in, or the ac-
22 tivities of which affect, interstate or foreign commerce
23 in any way or degree;
24 "(5) the term 'monetary instruments' means coin
25 or currency of the United States or of any other coun-

1 try, travelers' checks, personal checks, bank checks,
2 money orders, investment securities in bearer form or
3 otherwise in such form that title thereto passes upon
4 delivery, and negotiable instruments in bearer form or
5 otherwise in such form that title thereto passes upon
6 delivery;

7 "(6) the term 'financial institution' has the defini-
8 tion given that term in section 5312(a)(2) of title 31,
9 United States Code, and the regulations promulgated
10 thereunder; and

11 "(7) the term 'specified unlawful activity' means

12 "(A) any act or activity occurring in whole
13 or in part in, or directed at, the United States,
14 and constituting an offense listed in section
15 1961(1) of this title except an act which is indict-
16 able under the Currency and Foreign Transac-
17 tions Reporting Act;

18 "(B) with respect to a financial transaction
19 occurring in whole or in part in the United States,
20 an offense against a foreign nation involving the
21 manufacture, importation, sale, or distribution of a
22 controlled substance (as such term is defined for
23 the purposes of the Controlled Substances Act);

24 "(C) any act or acts constituting a continuing
25 criminal enterprise, as that term is defined in sec-

1 tion 408 of the Controlled Substances Act (21
2 U.S.C. 848);
3 "(D) an offense under section 152 (relating
4 to concealment of assets; false oaths and claims;
5 bribery), section 215 (relating to commissions or
6 gifts for procuring loans), sections 500 through
7 503 (relating to certain counterfeiting offenses),
8 section 511 (relating to securities of States and
9 private entities), section 545 (relating to smug-
10 gling goods into the United States), section 641
11 (relating to public money, property, or records),
12 section 656 (relating to theft, embezzlement, or
13 misapplication by bank officer or employee), sec-
14 tion 666 (relating to theft or bribery concerning
15 programs receiving Federal funds), section 793,
16 794, or 798 (relating to espionage), section 875
17 (relating to interstate communications), section
18 1201 (relating to kidnaping), section 1203 (relat-
19 ing to hostage taking), section 1344 (relating to
20 bank fraud), or section 2113 or 2114 (relating to
21 bank and postal robbery and theft) of this title; or
22 "(E) except where jurisdiction attaches pur-
23 suant to subsection (f), an offense under section
24 38 of the Arms Export Control Act (22 U.S.C.
25 2778), the Export Administration Act of 1979 (50

1 U.S.C. App. 2401 et seq.), the International
2 Emergency Economic Powers Act (50 U.S.C.
3 1702 et seq.), and the Trading With the Enemy
4 Act (50 U.S.C. App. 1 et seq.).
5 "(d) Nothing in this section shall supersede any provi-
6 sion of Federal, State, or other law imposing criminal penal-
7 ties or affording civil remedies in addition to those provided
8 for in this section.
9 "(e) Violations of this section may be investigated by
10 such components of the Department of Justice as the Attor-
11 ney General may direct, by such components of the Depart-
12 ment of the Treasury as the Secretary of the Treasury may
13 direct, as appropriate and, with respect to offenses over
14 which the United States Postal Service has jurisdiction, by
15 the Postal Service.
16 "(f) There is extraterritorial jurisdiction over the con-
17 duct prohibited by this section if—
18 "(1) the conduct is by a United States citizen or,
19 in the case of a non-United States citizen, the conduct
20 occurs in part in the United States; and
21 "(2) the transaction or series of related transac-
22 tions involves funds or monetary instruments of a value
23 exceeding $10,000.".

1 (b) The table of sections at the beginning of chapter 95
2 of title 18 is amended by adding at the end the following new
3 item:

"1956. Laundering of monetary instruments".

4 **SEC. 2703. AMENDMENT TO THE RIGHT TO FINANCIAL PRIVA-**
5 **CY ACT OF 1978.**

6 (a) Subsection 1103(c) of the Right to Financial Privacy
7 Act of 1978 (12 U.S.C. 3403(c)) is amended by adding at the
8 end thereof the following: "Such information may include the
9 name or names of and other identifying information concern-
10 ing the individuals and accounts involved in and the nature
11 and a description of the suspected illegal activity sufficient to
12 enable the Government authority to obtain access to or
13 copies of such information pursuant to law. Such information
14 may be disclosed notwithstanding any constitution, law, or
15 regulation of any State or political subdivision thereof to the
16 contrary. Any financial institution, or officer, employee, or
17 agent thereof, making a disclosure of information pursuant to
18 this subsection, shall not be liable to the customer under any
19 law or regulation of the United States or any constitution,
20 law, or regulation of any State or political subdivision there-
21 of, for such disclosure or for any failure to notify the custom-
22 er of such disclosure.".

23 (b) Section 1113(i) of the Right to Financial Privacy Act
24 of 1978 (12 U.S.C. 3413(i)) is amended by inserting immedi-
25 ately before the period at the end thereof a comma and the

1 following: "except that a court shall have authority to order
2 a financial institution, on which a grand jury subpoena for
3 customer records has been served, not to notify the customer
4 of the existence of the subpoena or information that has been
5 furnished to the grand jury, under the circumstances and for
6 the period specified and pursuant to the procedures estab-
7 lished in section 1109 of the Right to Financial Privacy Act
8 of 1978 (12 U.S.C. 3409)".

9 **SEC. 2704. AMENDMENTS TO TITLE 31 OF THE UNITED STATES**
10 **CODE.**

11 (a) Section 5318 of title 31, United States Code, is
12 amended to read as follows:

13 **"§ 5318. Compliance, exemptions, and summons authority**

14 "(a) The Secretary of the Treasury may (except under
15 section 5315 of this title and regulations prescribed under
16 section 5315)—

17 "(1) delegate duties and powers under this sub-
18 chapter to an appropriate supervising agency, except
19 as provided in subsection (c);

20 "(2) require a class of domestic financial institu-
21 tions to maintain appropriate procedures to ensure
22 compliance with this subchapter and regulations pre-
23 scribed under this subchapter;

24 "(3) for the purpose of any investigation which, in
25 the opinion of the Secretary, is necessary and proper to

1 enforcement of the provisions of this subchapter, sec-
2 tion 21 of the Federal Deposit Insurance Act (12
3 U.S.C. 1829b), section 411 of the National Housing
4 Act (12 U.S.C. 1730d), or chapter 2 of Public Law
5 91–508, may administer oaths and affirmations, sub-
6 poena witnesses, compel their attendance, take evi-
7 dence, and require the production of or examine
8 records (including books, papers, documents, and tangi-
9 ble things which constitute or contain evidence) rele-
10 vant or material to the investigation;
11 "(b) Subject to the customer notification procedures of
12 the Right to Financial Privacy Act of 1978, a summons may
13 be issued under paragraph (3) of subsection (a) only by, or
14 with the approval of, the Secretary of the Treasury or a su-
15 pervisory level delegate of the Secretary of the Treasury.
16 "(c) A summons pursuant to this section may require
17 that books, papers, records, or other data stored or main-
18 tained at any place be produced at any designated location in
19 any state or in any territory or other place subject to the
20 jurisdiction of the United States not more than 500 miles
21 distant from any place where the financial institution oper-
22 ates or conducts business in the United States. Persons sum-
23 moned under this section shall be paid the same fees and
24 mileage for travel in the United States that are paid wit-
25 nesses in the courts of the United States. The United States

1 shall not be liable for any other expenses incurred in connec-
2 tion with the production of books, papers, records, or other
3 data pursuant to the provisions of this section.

4 "(d) Service of a summons issued under this section may
5 be by registered mail or in such other manner calculated to
6 give actual notice as the Secretary may provide by
7 regulation.

8 "(e) In the of contumacy by or refusal to obey a sum-
9 mons issued to any person under this section, the Secretary
10 shall refer the matter to the Attorney General. The Attorney
11 General may invoke the aid of any court of the United States
12 within the jurisdiction of which the investigation gave rise to
13 the summons is being or has been carried on or of which the
14 person summoned is an inhabitant, or in which he carries on
15 business or may be found, to compel compliance with the
16 summons. The court may issue an order requiring the person
17 summoned to appear before the Secretary of his delegate to
18 produce books, papers, records, and other data, to give testi-
19 mony as may be necessary to explain how such material was
20 compiled and maintained, and to pay the costs of the pro-
21 ceeding. Any failure to obey the order of the court may be
22 punished by the court as a contempt thereof. All process in
23 any such case may be served in any judicial district in which
24 such person may be found.".

1 (b)(1) Paragraph (1) of subsection (a) of section 5321 of
2 title 31, United States Code, is amended to read as follows:
3 "(1) A domestic financial institution, and a partner, di-
4 rector, officer, or employee of a domestic financial institution,
5 willfully violating this subchapter or a regulation prescribed
6 under this subchapter (except sections 5314 and 5315 of this
7 title or a regulation prescribed under sections 5314 and
8 5315), is liable to the United States Government for a civil
9 penalty of not more than the amount of the transaction (but
10 not more than $1,000,000) or $25,000, whichever is greater.
11 For a willful violation of section 5318(a)(2) of this title, or a
12 regulation prescribed under section 5318(a)(2), a separate
13 violation occurs for each day the violation continues and at
14 such office, branch, or place of business at which a violation
15 occurs or continues.".
16 "(2) Subsection (a) of section 5321 of title 31, United
17 States Code, is amended by adding at the end thereof the
18 following new paragraphs:
19 "(4) A person willfully violating the provisions of section
20 5314 of this title or of a regulation prescribed under section
21 5314 is liable to the United States Government for a civil
22 penalty of not more than—
23 "(A) where the violation involves a transaction, the
24 amount of the transaction or $25,000, whichever is greater,
25 or

1 "(B) where the violation involves the failure to report
2 the existence of an account or any required identifying data
3 pertaining to the account, the amount of the account (but not
4 more than $250,000) or $25,000, whichever is greater.
5 "(5) Any financial institution negligently violating any
6 provision of this subchapter or a regulation prescribed under
7 this subchapter is liable to the United States for a civil penal-
8 ty of not more than $500.
9 "(6) A civil penalty assessed pursuant to this section is
10 in addition to any criminal penalty under section 5322 of this
11 title based on the same transaction.
12 "(7) The Secretary may impose a civil penalty on a
13 person or persons (excluding a domestic financial institution
14 examined by a federal bank supervisory agency or a financial
15 institution regulated by the Securities and Exchange Com-
16 mission) willfully violating section 5313 of this subchapter. A
17 civil penalty under this paragraph may not be more than the
18 amount of the United States coins and currency (or other
19 monetary instruments the Secretary may prescribe) involved
20 in the violation of section 5313 of this subchapter. A civil
21 penalty under this paragraph is reduced by any amount for-
22 feited under subsection 5317(d) of this subchapter.".
23 (c) Subsection (b) of section 5321 of title 31, United
24 States Code, is amended to read as follows:

1 "(b) The Secretary may assess a civil penalty under this
2 section within six years from the date of the transaction on
3 which the penalty is based. The Secretary may bring a civil
4 action to recover a civil penalty under this section within two
5 years from the date of a penalty assessment or the conclusion
6 of a criminal action under section 5322 of this title based on
7 the same transaction, whichever is later."
8 (d) Subsection (c) of section 5321 of title 31 is amended
9 to read as follows:
10 "(c) The Secretary of the Treasury may remit any part
11 of a forfeiture under subsection 5317 (c) or (d) of this sub-
12 chapter or may mitigate any civil penalty under subsection
13 (a) of this section.".
14 (e) Subsection (b) of section 5322 of title 31, United
15 States Code, is amended by striking out "pattern of illegal
16 activity involving transactions of more than $100,000" and
17 inserting in lieu thereof "pattern of any illegal activity in-
18 volving more than $100,000", and by striking out "5" and
19 inserting in lieu thereof "10".
20 (f) Section 5312(a)(3)(B) of title 31, United States Code,
21 is amended by striking the period at the end thereof and in-
22 serting in lieu thereof: "whether or not in bearer form.".
23 (g) Section 5312(a)(5) of title 31, United States Code, is
24 amended to read as follows:

1 "(5) 'United States' means the States of the
2 United States, the District of Columbia, and, when the
3 Secretary prescribes by regulation, the Commonwealth
4 of Puerto Rico, the Virgin Islands, Guam, the North-
5 ern Mariana Islands, American Samoa, the Trust Ter-
6 ritory of the Pacific Islands, any other territory or pos-
7 session of the United States, or a military or diplomatic
8 establishment.".
9 (h) Subsection (a) of section 5313 of title 31, United
10 States Code, is amended by adding at the end thereof the
11 following: "No person shall, for the purpose of evading the
12 reporting requirements of this subsection—
13 "(1) cause or attempt to cause a domestic finan-
14 cial institution to fail to file a report required by this
15 subsection;
16 "(2) cause or attempt to cause a domestic finan-
17 cial institution to file a report required by this subsec-
18 tion that contains a material omission or misstatement
19 of fact; or
20 "(3) structure or attempt to structure or assist in
21 structuring a transaction.".
22 (i) Subsection 5317(c) of title 31, United States Code, is
23 amended to read as follows:
24 "(c) A monetary instrument being transported, or which
25 has been transported, or any interest in any property, includ-

1 ing any deposit in a financial institution, traceable to such
2 instrument, may be seized and forfeited to the United States
3 Government when a report on the instrument under section
4 5316 of this title has not been filed or contains a material
5 omission or misstatement.".

6 (j) A new subsection 5317(d) of title 31, United States
7 Code, is added as follows:

8 "(d)(1) United States coin and currency (or other mone-
9 tary instrument as the Secretary may prescribe) or any inter-
10 est in other property, including any deposit in a financial in-
11 stitution traceable to such coin or currency involved in a
12 transaction or attempted transaction in violation of section
13 5313(a) of this subchapter, may be seized and forfeited to the
14 United States Government. No property or interest in prop-
15 erty shall be seized or forfeited if the violation is by a domes-
16 tic financial institution examined by a Federal bank supervi-
17 sory agency or a financial institution regulated by the securi-
18 ties and Exchange Commission or a partner, director, office,
19 or employee thereof. No property or interest in property shall
20 be forfeited under this subsection to the extent of an interest
21 of an owner by reason of any act or omission established by
22 that owner to have been committed or omitted without the
23 knowledge of that owner.

24 "(2) For purposes of this section, the provisions of the
25 customs laws relating to the seizure, summary and judicial

1 forfeiture, condemnation of property for violation of the
2 custom laws, the disposition of such property or the proceeds
3 from the sale of such property, the remission or mitigation of
4 such forfeitures, and the compromise of claims (the Tariff Act
5 of 1930, as amended, §602 et seq.), insofar as they are appli-
6 cable and not inconsistent with the provisions of this subsec-
7 tion, shall apply to seizures and forfeitures incurred, or al-
8 leged to have been incurred, under this section, except that
9 such duties as are imposed upon the customs officer shall be
10 performed by such persons as may be authorized or designat-
11 ed for that purpose by the Secretary of the Treasury.''.
12 (k) The table of sections at the beginning of chapter 53,
13 subchapter II, of title 31, is amended by striking ''5318.
14 Compliance and exemption.'' and inserting in lieu thereof
15 ''5318. Compliance, exemptions and summons authority.''
16 (l) Subsection (c) of section 5322 of title 31, United
17 States Code, is amended by striking out ''5318(2)'' each time
18 it appears and inserting in lieu thereof ''5318(a)(2)''
19 **SEC. 2705. PENALTIES UNDER FEDERAL DEPOSIT INSURANCE**
20 **ACT.**
21 Section 21(b) of the Federal Deposit Insurance Act (12
22 U.S.C. 1829(b)) is amended to read as follows:
23 ''(b) REGULATIONS AND PENALTIES.—(1) Where the
24 Secretary of the Treasury (referred to in this section as the
25 'Secretary') determines that the maintenance of appropriate

1 types of records and other evidence by insured banks has a
2 high degree of usefulness in criminal, tax or regulatory inves-
3 tigations or proceedings, he shall prescribe regulations to
4 carry out the purposes of this section.

5 "(2) For each willful violation of any regulation issued
6 by the Secretary pursuant to paragraph (1) of this subsection,
7 the Secretary may impose on any bank and partner, director,
8 officer or employee of a bank who participates in the viola-
9 tion, a civil penalty not to exceed $10,000. Such penalties
10 will be assessed, mitigated and collected in accordance with
11 the provisions of section 532 (b) and (c) of title 31, United
12 States Code.

13 "(3) Whoever willfully violates any regulation issued by
14 the Secretary pursuant to paragraph (1) of this subsection
15 shall be fined not more than $250,000 and imprisoned for not
16 more than 5 years, or both.".

17 **SEC. 2706. MONEY LAUNDERING AS A PREDICATE OFFENSE.**

18 (a) Subsection (b) of section 1952 of title 18, United
19 States Code, is amended by striking out "or" before "(2)",
20 and by striking out the period at the end thereof and inserting
21 in lieu thereof the following: ", or (3) any act which is indict-
22 able under subchapter II of chapter 53 of title 31, United
23 States Code, or under section 1956 of this title.".

24 (b) Subsection (1) of section 1961 of title 18, United
25 States Code, is amended by inserting "section 1956 (relating

1 to the laundering of monetary instruments)," after "section
2 1955 (relating to the prohibition of illegal gambling
3 businesses),".

4 (c) Subsection (1) of section 2516 of title 18, United
5 States Code, is amended in paragraph (c) by inserting "sec-
6 tion 1956 (laundering of monetary instruments)," after "sec-
7 tion 1955 (prohibition of business enterprises of gambling),".

8 **SEC. 2707. FORFEITURE.**

9 (a) Title 18 of the United States Code, is amended by
10 adding after chapter 45 a new chapter 46 as follows:

11 **"CHAPTER 46—FORFEITURE**

"Sec.
"981. Civil Forfeiture.
"982. Criminal Forfeiture.

12 **"§ 981. Civil forfeiture**

13 "(a)(1) Except as provided in paragraph (2), the follow-
14 ing property is subject to forfeiture to the United States:

15 "(A) Any property, real or personal, which repre-
16 sents the gross receipts a person obtains, directly or in-
17 directly, as a result of a violation of section 1956 of
18 this title, or which is traceable to such gross receipts.

19 "(B) Any property within the jurisdiction of the
20 United States, which represents the proceeds of an of-
21 fense against a foreign nation involving the manufac-
22 ture, importation, sale, or distribution of a controlled
23 substance (as such term is defined for the purposes of
24 the Controlled Substances Act), within whose jurisdic-

1 tion such offense or activity would be punishable by
2 death or imprisonment for a term exceeding one year
3 and which would be punishable by imprisonment for a
4 term exceeding one year if such act or activity had oc-
5 curred within the jurisdiction of the United States.
6 "(2) No property shall be forfeited under this section to
7 the extent of the interest of an owner or lienholder by reason
8 of any act of omission established by that owner or lienholder
9 to have been committed without the knowledge of that owner
10 or lienholder.
11 "(b) Any property subject to forfeiture to the United
12 States under subsection (a)(1)(A) or (a)(1)(B) of this section
13 may be seized by the Attorney General or, with respect to
14 property involved in a violation of section 1956 of this title
15 investigated by the Secretary of the Treasury, may be seized
16 by the Secretary of the Treasury, upon process issued pursu-
17 ant to the Supplemental Rules for certain Admiralty and
18 Maritime Claims by any district court of the United States
19 having jurisdiction over the property, except that seizure
20 without such process may be made when—
21 "(1) the seizure is pursuant to a lawful arrest or
22 search; or
23 "(2) the Attorney General or the Secretary of the
24 Treasury, as the case may be, has obtained a warrant
25 for such seizure pursuant to the Federal Rules of

1 Criminal Procedure, in which event proceedings under
2 subsection (d) of this section shall be instituted
3 promptly.
4 "(c) Property taken or detained under this section shall
5 not be repleviable, but shall be deemed to be in the custody of
6 the Attorney General or the Secretary of the Treasury, as
7 the case may be, subject only to the orders and decrees of the
8 court or the official having jurisdiction thereof. Whenever
9 property is seized under this subsection, the Attorney Gener-
10 al or the Secretary of the Treasury, as the case may be,
11 may—
12 "(1) place the property under seal;
13 "(2) remove the property to a place designated by
14 him; or
15 "(3) require that the General Services Adminis-
16 tration take custody of the property and remove it, if
17 practicable, to an appropriate location for disposition in
18 accordance with law.
19 "(d) For purposes of this section, the provisions of the
20 customs laws relating to the seizure, summary and judicial
21 forfeiture, condemnation of property for violation of the cus-
22 toms laws, the disposition of such property or the proceeds
23 from the sale of this section, the remission or mitigation of
24 such forfeitures, and the compromise of claims (19 U.S.C.
25 1602 et seq.), insofar as they are applicable and not incon-

1 sistent with the provisions of this section shall apply to sei-
2 zures and forfeitures incurred, or alleged to have been in-
3 curred, under this section, except that such duties as are im-
4 posed upon the customs officer or any other person with re-
5 spect to the seizure and forfeiture of property under the cus-
6 toms laws shall be performed with respect to seizures and
7 forfeitures of property under this section by such officers,
8 agents, or other persons as may be authorized or designated
9 for that purpose by the Attorney General or the Secretary of
10 the Treasury, as the case may be.

11 "(e) Notwithstanding any other provision of the law, the
12 Attorney General or the Secretary of the Treasury, as the
13 case may be, is authorized to retain property forfeited pursu-
14 ant to this section, or to transfer such property on such terms
15 and conditions as he may determine to—

16 "(1) any other Federal agency; or

17 "(2) any State or local law enforcement agency
18 which participated directly in any of the acts which led
19 to the seizure or forfeiture of the property.

20 "The Attorney General or the Secretary of the Treas-
21 ury, as the case may be shall ensure the equitable transfer
22 pursuant to paragraph (2) of any forfeited property to the
23 appropriate State or local law enforcement agency so as to
24 reflect generally the contribution of any such agency partici-
25 pating directly in any of the acts which led to the seizure or

1 forfeiture of such property. A decision by the Attorney Gen-
2 eral or the Secretary of the Treasury pursuant to paragraph
3 (2) shall not be subject to review. The United States shall not
4 be liable in any action arising out of the use of any property
5 the custody of which was transferred pursuant to this section
6 to any non-Federal agency. The Attorney General or the
7 Secretary of the Treasury may order the discontinuance of
8 any forfeiture proceedings under this section in favor of the
9 institution of forfeiture proceedings by State or local authori-
10 ties under an appropriate State or local statute. After the
11 filing of a complaint for forfeiture under this section, the At-
12 torney General may seek dismissal of the complaint in favor
13 of forfeiture proceedings under State or local law. Whenever
14 forfeiture proceedings are discontinued by the United States
15 in favor of State or local proceedings, the United States may
16 transfer custody and possession of the seized property to the
17 appropriate State or local official immediately upon the initi-
18 ation of the proper actions by such officials. Whenever for-
19 feiture proceedings are discontinued by the United States in
20 favor of State or local proceedings, notice shall be sent to all
21 known interested parties advising them of the discontinuance
22 or dismissal. The United States shall not be liable in any
23 action arising out of the seizure, detention, and transfer of
24 seized property to State or local officials.

1 "(f) All right, title, and interest in property described in
2 subsection (a) of this section shall vest in the United States
3 upon commission of the act giving rise to forfeiture under this
4 section.

5 "(g) The filing of an indictment or information al-
6 leging a violation of law which is also related to a for-
7 feiture proceeding under this section shall, upon motion
8 of the United States and for good cause shown, stay
9 the forfeiture proceeding.

10 "(h) In addition to the venue provided for in sec-
11 tion 1395 of title 28 or any other provision of law, in
12 the case of property of a defendant charged with a vio-
13 lation that is the basis for forfeiture of the property
14 under this section, a proceeding for forfeiture under
15 this section may be brought in the judicial district in
16 which the defendant owning such property is found or
17 in the judicial district in which the criminal prosecution
18 is brought.

19 "(i) In the case of property subject to forfeiture
20 under subsection (a)(1)(B), the following additional pro-
21 visions shall apply:

22 "(1) Notwithstanding any other provision of law,
23 whenever property is civilly or criminally forfeited
24 under this subchapter, the Attorney General may equi-
25 tably transfer any conveyance, currency, and any other

1 type of personal property which the Attorney General
2 may designate by regulation for equitable transfer, or
3 any amounts realized by the United States from the
4 sale of any real or personal property forfeited under
5 this subchapter to an appropriate foreign country to re-
6 flect generally the contribution of any such foreign
7 country participating directly or indirectly in any acts
8 which led to the seizure or forfeiture of such property.
9 Such property when forfeited pursuant to subsection
10 (a)(1)(B) of this section may also be transferred to a
11 foreign country pursuant to a treaty providing for the
12 transfer of forfeited property to such foreign country. A
13 decision by the Attorney General pursuant to this
14 paragraph shall not be subject to review. The foreign
15 country shall, in the event of a transfer of property or
16 proceeds of sale of property under this subchapter, bear
17 all expenses incurred by the United States in the sei-
18 zure, maintenance, inventory, storage, forfeiture, and
19 disposition of the property, and all transfer costs. The
20 payment of all such expenses, and the transfer of
21 assets pursuant to this paragraph, shall be upon such
22 terms and conditions as the Attorney General may, in
23 his discretion, set.
24 "(2) The provisions of this section shall not be
25 construed as limiting or superseding any other author-

1 ity of the United States to provide assistance to a for-
2 eign country in obtaining property related to a crime
3 committed in the foreign country, including, but not
4 limited to, property which is sought as evidence of a
5 crime committed in the foreign country.

6 "(3) A certified order or judgment of forfeiture by
7 a court of competent jurisdiction of a foreign country
8 concerning property which is the subject of forfeiture
9 under this section and was determined by such court to
10 be the type of property described in subsection (a)(1)(B)
11 of this section, and any certified recordings or tran-
12 scripts of testimony taken in a foreign judicial proceed-
13 ing concerning such order or judgment of forfeiture,
14 shall be admissible in evidence in a proceeding brought
15 pursuant to this section. Such certified order or judg-
16 ment of forfeiture, when admitted into evidence, shall
17 constitute probable cause that the property forfeited by
18 such order or judgment of forfeiture is subject to for-
19 feiture under this section and creates a rebuttable pre-
20 sumption of the forfeitability of such property under
21 this section.

22 "(4) A certified order or judgment of conviction
23 by a court of competent jurisdiction of a foreign coun-
24 try concerning an unlawful drug activity which gives
25 rise to forfeiture under this section and any certified re-

1 cordings or transcripts of testimony taken in a foreign
2 judicial proceeding concerning such order or judgment
3 of conviction shall be admissible in evidence in a pro-
4 ceeding brought pursuant to this section. Such certified
5 order or judgment of conviction, when admitted into
6 evidence, creates a rebuttable presumption that the un-
7 lawful drug activity giving rise to forfeiture under this
8 section has occurred.

9 "(5) The provisions of paragraphs (3) and (4) of
10 this subsection shall not be construed as limiting the
11 admissibility of any evidence otherwise admissible, nor
12 shall they limit the ability of the United States to es-
13 tablish probable cause that property is subject to for-
14 feiture by any evidence otherwise admissible.

15 "(k) For purposes of this section—

16 "(1) the term 'Attorney General' means the At-
17 torney General or his delegate; and

18 "(2) the term 'Secretary of the Treasury' means
19 the Secretary of the Treasury or his delegate.

20 **"§ 982. Criminal forfeiture**

21 "(a) The court, in imposing sentence on a person con-
22 victed of an offense under section 1956 of this title shall
23 order that the person forfeit to the United States any proper-
24 ty, real or personal, which represents the gross receipts the

1 person obtained, directly or indirectly, as a result of such
2 offense, or which is traceable to such gross receipts.
3 "(b) The provisions of subsections 413 (c) and (e)
4 through (o) of the Comprehensive Drug Abuse Prevention
5 and Control Act of 1970 (21 U.S.C. 853 (c) and (e)–(o)) shall
6 apply to property subject to forfeiture under this section, to
7 any seizure or disposition thereof, and to any administrative
8 or judicial proceeding in relation thereto, if not inconsistent
9 with this section.".
10 (b) The chapter analysis of part I of title 18, United
11 States Code, is amended by inserting after the item for chap-
12 ter 45 the following:

"46. Forfeiture ..... 981".

13 **TITLE III—NEW INITIATIVES AGAINST**
14 **DRUGS**

15 **Subtitle A—White House Conference on Drug**
16 **Abuse, Education, Prevention, and Treatment**

17 SEC. 3001. SHORT TITLE.
18 This subtitle may be cited as the "White House Confer-
19 ence on Drug Abuse, Education, Prevention, and Treatment
20 Act of 1986".

21 SEC. 3002. AUTHORIZATION OF CONFERENCE.
22 Within 6 months after the date of enactment of this Act,
23 the President shall call and conduct a White House Confer-
24 ence on Drug Abuse Education, Prevention, and Treatment

1 (hereinafter referred to in this subtitle as the "Conference")
2 to carry out the purposes described in section 3003.

3 **SEC. 3003. PURPOSE OF CONFERENCE.**

4 (a) The purposes of the Conference are—

5 (1) to share information and experiences in order
6 to advance our national commitment to a drug free so-
7 ciety;

8 (2) to highlight the dimensions of the drug abuse
9 crisis, to examine the progress made in dealing with
10 such crisis, and to explore what remains to be accom-
11 plished to end drug abuse; and

12 (3) to bring public attention to those approaches
13 to drug abuse education and prevention which have
14 been successful in curbing drug abuse and those meth-
15 ods of treatment which have enabled drug abusers to
16 become drug free.

17 (b) The Conference shall specifically review—

18 (1) the essential role of parents and family mem-
19 bers in preventing the basic causes of drug abuse and
20 in helping drug abusers regain control of their lives and
21 their future;

22 (2) the impact of drug abuse upon American edu-
23 cation and the effectiveness of drug education programs
24 in our schools, with particular attention to those

1 schools, both public and private, which have main-
2 tained a drug free learning environment;
3 (3) the role of the news media, the entertainment
4 industry, academic institutions, professional and ama-
5 teur sports, the health profession, the legal profession,
6 the teaching profession, the business community, and
7 labor unions in contributing to our Nation's drug prob-
8 lem and to solutions to the problem; and
9 (4) the extent to which Federal, State, and local
10 programs of drug abuse education, prevention, and
11 treatment require reorganization or reform in order to
12 better use available resources and to ensure greater co-
13 ordination among such programs.
14 **SEC. 3004. CONFERENCE PARTICIPANTS.**
15 (a) In order to carry out the purposes specified in section
16 3003, the Conference shall bring together individuals con-
17 cerned with issues relating to drug abuse education, preven-
18 tion, and treatment. The President shall—
19 (1) ensure the active participation in the Confer-
20 ence of the heads of appropriate executive and military
21 departments, including the Attorney General, the Sec-
22 retary of Education, the Secretary of Health and
23 Human Services, and the Secretary of Transportation;
24 and

1 (2) provide for the involvement in the Conference
2 of other appropriate public officials and representatives
3 of private entities, particularly parents' groups which
4 have been active in the fight against drug abuse.
5 (b) Each participant in the Conference shall be responsi-
6 ble for the expenses of such participant in attending the Con-
7 ference, and shall not be reimbursed for such expenses from
8 amounts appropriated to carry out this subtitle.
9 **SEC. 3005. PLANNING AND ADMINISTRATION OF CONFERENCE.**
10 (a) All Federal departments, agencies, and instrumental-
11 ities shall provide such support and assistance as may be nec-
12 essary to facilitate the planning and administration of the
13 Conference.
14 (b)(1) The President is authorized to appoint and com-
15 pensate an executive director and such other directors and
16 personnel for the Conference as the President may consider
17 advisable, without regard to the provisions of title 5, United
18 States Code, governing appointments in the competitive serv-
19 ice, and without regard to the provisions of chapter 51 and
20 subchapter III of chapter 52 of such title relating to classifi-
21 cation and General Schedule pay rates.
22 (2) Upon request by the executive director, the heads of
23 the executive and military departments are authorized to
24 detail employees to work with the executive director in plan-

1 ning and administering the Conference without regard to the
2 provisions of section 3341 of title 5, United States Code.

3 SEC. 3006. FINAL REPORT.

4 Not more than 6 months after the date on which the
5 Conference is convened, a final report of the Conference shall
6 be submitted to the President and the Congress. The report
7 shall include the findings and recommendations of the Confer-
8 ence and shall be available to the public.

9 SEC. 3007. AVAILABILITY OF FUNDS.

10 There are authorized to be appropriated such sums as
11 may be necessary to carry out this subtitle. Amounts appro-
12 priated under this section shall remain available until expend-
13 ed. New spending authority or authority to enter contracts as
14 provided in this subtitle shall be effective only to such extent
15 and in such amounts as are provided in advance in appropria-
16 tion Acts.

17 **Subtitle B—Commerce**

18 **PART I—RAILROAD SAFETY**

19 SEC. 3051. RAILROAD SAFETY.

20 Section 202 of the Federal Railroad Safety Act of 1970
21 (42 U.S.C. 431) is amended by adding at the end thereof the
22 following:

23 "(l) The Secretary shall, within one year after the date
24 of enactment of this subsection, review existing rules, regula-
25 tions, standards, and orders governing alcohol and drug use

1 in railroad operations for the purpose of determining whether
2 they are adequate to ensure safety. In conducting such
3 review, the Secretary shall specifically—

4 "(1) to the extent permitted by law, require that
5 all railroad employees responsible for safety-sensitive
6 functions be subject to testing on a random basis for
7 the presence of alcohol and controlled substances;

8 "(2) consider application of existing rules, regula-
9 tions, orders, and standards to other categories of em-
10 ployees, including employees responsible for the safety
11 of passengers, railroad rolling stock, and track and re-
12 lated structures;

13 "(3) consider disqualification for an established
14 period of time of any employee determined to have
15 used or to have been impaired by alcohol while on
16 duty; and

17 "(4) consider disqualification for an established
18 period of time of any employees determined to have
19 used a controlled substance, whether on duty or not on
20 duty, except as permitted for medical purposes by law
21 and any rules, regulations, orders, or standards issued
22 under this Act.".

1 **PART II—AIR SAFETY**

2 **SEC. 3061. AIR SAFETY.**

3 (a)(1) Title VI of the Federal Aviation Act of 1958 (49
4 App. U.S.C. 1421 et seq.) is amended by adding at the end
5 thereof the following:

6 "TESTING FOR CONTROLLED SUBSTANCES AND ALCOHOL

7 "REQUIREMENT OF TESTING

8 "SEC. 613. (a)(1) The Administrator shall, in the inter-
9 est of aviation safety, prescribe regulations establishing a
10 program which requires air carriers to conduct pre-employ-
11 ment, periodic recurring, and post-accident testing of airmen
12 and crewmembers for the presence of controlled substances
13 or alcohol in their blood or urine. The Administrator shall
14 establish such a program applicable to employees of the Fed-
15 eral Aviation Administration whose duties include responsi-
16 bility for safety of flight operations.

17 "(2) To the extent permitted by law, the Administrator
18 shall require random testing as part of the programs estab-
19 lished under paragraph (1) of this subsection.

20 "PROHIBITION ON SERVICE

21 "(b)(1)(A) No air carrier shall permit any individual who
22 is determined to have used a controlled substance without
23 lawful authorization after the date of enactment of this sec-
24 tion to serve as an airman or crewmember unless such indi-
25 vidual has completed a program of rehabilitation described in
26 subsection (c) of this section.

1 "(B) In the case of any airman or crewmember deter-
2 mined by the Administrator to have used a controlled sub-
3 stance without lawful authorization after the date of enact-
4 ment of this section who refuses to undertake or fails to com-
5 plete a rehabilitation program described in subsection (c) of
6 this section, who has previously undertaken, completed or
7 failed to complete such a rehabilitation program, or who has
8 been determined by the Administrator to have served as an
9 airman or crewmember while impaired by or under the influ-
10 ence of a controlled substance, the Administrator may revoke
11 the airman certificate of such an airman or, in the case of a
12 crewmember, prohibit such individual from serving as a
13 crewmember.

14 "(2)(A) The Administrator shall not permit any employ-
15 ee of the Federal Aviation Administration whose duties in-
16 clude responsibility for safety of flight operations who is de-
17 termined to have used a controlled substance without lawful
18 authorization after the date of enactment of this section to
19 perform any such duties unless such individual has completed
20 a program of rehabilitation described in subsection (c) of this
21 section.

22 "(B) In the case of any employee of the Federal Avia-
23 tion Administration whose duties include responsibility for
24 safety of flight operations determined by the Administrator to
25 have used a controlled substance without lawful authorization

1 after the date of enactment of this section who refuses to
2 undertake or fails to complete a rehabilitation program de-
3 scribed in subsection (c) of this section, who has previously
4 undertaken, completed or failed to complete such a rehabili-
5 tation program, or who has been determined by the Adminis-
6 trator to have performed duties which include responsibility
7 for safety of flight operations while impaired by or under the
8 influence of a controlled substance, the Administrator shall
9 not permit such employee to perform any such duties.

10 "REHABILITATION PROGRAM

11 "(c)(1) Each air carrier shall establish and maintain a
12 rehabilitation program which at a minimum provides for the
13 identification and treatment of airmen and crewmembers in
14 need of assistance in resolving problems with the use of con-
15 trolled substances or alcohol. Each air carrier is encouraged
16 to make such program available to all of its employees other
17 than airmen and crewmembers. Nothing in this subsection
18 shall preclude any air carrier from establishing a program
19 under this subsection in cooperation with any other air
20 carrier.

21 "(2) The Administrator shall establish and maintain a
22 rehabilitation program which at a minimum provides for the
23 identification and treatment of those employees of the Feder-
24 al Aviation Administration whose duties include responsibil-
25 ity for safety of flight operations who are in need of assist-

1 ance in resolving problems with the use of controlled sub-
2 stances or alcohol.

3 "EFFECT ON OTHER REGULATIONS

4 "(d) Nothing in this section shall preclude the Adminis-
5 tration from adopting or continuing in effect other regulations
6 intended to protect persons or property on the ground or in
7 the air from the hazards to safety associated with the poten-
8 tial use of controlled substances or alcohol by airmen or
9 crewmembers.

10 "DEFINITIONS

11 "(e) For the purpose of this section, the term 'controlled
12 substance' has the meaning given such term by section
13 102(b) of the Controlled Substances Act (21 U.S.C.
14 802(6))."."

15 (2) The Administrator of the Federal Aviation Adminis-
16 tration shall amend section 91.11 of the Federal Aviation
17 Regulations (14 CFR 91.11) to include mechanics and other
18 employees directly responsible for the safety of flight oper-
19 ations as crewmembers for purposes of such section.

20 (3) That portion of the table of contents of the Federal
21 Aviation Act of 1958 relating to title VI is amended by
22 adding at the end thereof the following:

"Sec. 613. Testing for controlled substances and alcohol.
"(a) Requirements of testing.
"(b) Prohibition on service.
"(c) Rehabilitation program.
"(d) Effect on other regulations.
"(e) Definitions.".

1 (b)(1) Section 902(b) of the Federal Aviation Act of
2 1958 (49 U.S.C. 1472(b)) is amended by adding at the end
3 thereof the following:
4 "(3) Nothing in this subsection or in any other provision
5 of this Act shall preclude a State from establishing criminal
6 penalties, including providing for forfeiture or seizure of air-
7 craft, for a person who—
8 "(A) knowingly and willfully forges, counterfeits,
9 alters, or falsely makes an aircraft registration cer-
10 tificate;
11 "(B) knowingly sells, uses, attempts to use, or
12 possesses with intent to use a fraudulent aircraft regis-
13 tration certificate;
14 "(C) knowingly and willfully displays or causes to
15 be displayed on any aircraft any marks that are false
16 or misleading as to the nationality or registration of
17 the aircraft; or
18 "(D) obtains an aircraft registration certificate
19 from the Administrator by knowingly and willfully fal-
20 sifying, concealing, or covering up a material fact, or
21 making a false, fictitious, or fraudulent statement or
22 representation, or making or using any false writing or
23 document knowing the writing or document to contain
24 any false, fictitious, or fraudulent statement or entry.".

1 (2) Section 501 of the Federal Aviation Act of 1958 (49
2 U.S.C. 1401) is amended by adding at the end thereof the
3 following:

4 "INSPECTION BY LAW ENFORCEMENT OFFICERS

5 "(g) The operator of an aircraft shall make available for
6 inspection an aircraft's certificate or registration upon request
7 by a Federal, State, or local law enforcement officer.".

8 (3) That portion of the table of contents of the Federal
9 Aviation Act of 1958 which appears under the side heading
10 "Sec. 501. Registration of aircraft nationality." is amended
11 by adding at the end thereof the following:

12 "(g) Inspection by law enforcement officers.".

13 (c)(1) Subsection (q) of section 902 of the Federal Avia-
14 tion Act of 1958 (49 U.S.C. 1472(q)) is amended to read as
15 follows:

16 "VIOLATIONS IN CONNECTION WITH TRANSPORTATION OF
17 CONTROLLED SUBSTANCES

18 "(q)(1) It shall be unlawful, in connection with transpor-
19 tation described in paragraph (2) and with knowledge of such
20 transportation, for any person—

21 "(A) who is the owner of an aircraft eligible for
22 registration under section 501, to knowingly and will-
23 fully operate, attempt to operate, or permit any other
24 person to operate such aircraft if the aircraft is not
25 registered under section 501 or the certificate of regis-
26 tration of the aircraft is suspended or revoked, or if

1 such person does not have proper authorization to op-
2 erate or navigate the aircraft without registration for a
3 period of time after transfer of ownership;
4 "(B) to operate or attempt to operate an aircraft
5 eligible for registration under section 501 knowing that
6 such aircraft is not registered under section 501, that
7 the certificate of registration is suspended or revoked,
8 or that such person does not have proper authorization
9 to operate or navigate the aircraft without registration
10 for a period of time after transfer of ownership;
11 "(C) to knowingly and willfully serve, or attempt
12 to serve, in any capacity as an airman without a valid
13 airman certificate authorizing such person to serve in
14 such a capacity; and
15 "(D) to knowingly and willfully employ for service
16 or utilize any airman who does not possess a valid
17 airman certificate authorizing such person to serve in
18 such capacity.
19 "(2) The transportation referred to in paragraph (1) is
20 the transportation by aircraft of any controlled substance
21 where such transportation is punishable by death or imprison-
22 ment for a term exceeding one year under a State or Federal
23 law or is provided in connection with any act that is punish-
24 able by death or imprisonment for a term exceeding one year
25 under a State or Federal law relating to a controlled sub-

1 stance (other than a law relating to simple possession of a
2 controlled substance).
3 "(3) A person violating this subsection shall be subject
4 to a fine not exceeding $25,000, or imprisonment not exceed-
5 ing 5 years, or both.
6 "(4) For purposes of this subsection, the term 'con-
7 trolled substance' has the meaning given to such term by
8 section 102(5) of the Controlled Substances Act (21 U.S.C.
9 802(6)).".
10 (2) That portion of the table of contents of the Federal
11 Aviation Act of 1958 which appears under the side heading
12 "Sec. 902. Criminal penalties." is amended after the item
13 relating to subsection (q) to read as follows:
14 "(q) Violations in connection with transportation of controlled substances.".
15 (d) Section 904(a) of the Federal Aviation Act of 1958
16 (49 U.S.C. 1474(a)) is amended—
17 (1) by striking "$500" wherever it appears and
18 by inserting in lieu thereof "$5,000";
19 (2) by inserting immediately after the second sen-
20 tence the following: "In addition to any other penalty,
21 if any controlled substance described in section 584 of
22 the Tariff Act of 1930 (19 U.S.C. 1584) is found on
23 board of, or to have been unladen from, an aircraft
24 subject to section 1109(b) and (c) of this Act, the

1 owner or person in charge of such aircraft shall be sub-
2 ject to the penalties provided for in section 584 of the
3 Tariff Act of 1930 (19 U.S.C. 1584), unless such
4 owner or person is able to demonstrate, by a prepon-
5 derance of the evidence, that such owner or person did
6 not know, and could not, by the exercise of the highest
7 degree of care and diligence, have known, that any
8 such controlled substance was on board."; and
9 (3) by amending the third sentence to read as fol-
10 lows: "In the case the violation is by the owner, oper-
11 ator, or person in command of the aircraft, any penalty
12 imposed by this section shall be a lien against the air-
13 craft.".
14 (e)(1) Section 1109 of the Federal Aviation Act of 1958
15 (49 App. U.S.C. 1509) is amended by adding at the end
16 thereof the following:
17 "REPORTING TRANSFER OF OWNERSHIP
18 "(f) Any person having an ownership interest in any air-
19 craft for which a certificate of registration has been issued
20 under this Act shall, upon the sale, conditional sale, transfer
21 or conveyance of such ownership interest, file within 15 days
22 such notice as the Secretary of the Treasury may by regula-
23 tion require. The filing of a notice under this subsection shall
24 not relieve any person from the filing requirements of section
25 501 or 503 of this Act.".

1 (2) That portion of the table of contents of the Federal
2 Aviation Act of 1958 which appears under the side heading
3 "Sec. 1109. Application of existing laws relating to foreign
4 commerce." is amended by adding at the end thereof the
5 following:

6 "(f) Reporting transfer of ownership.".

7 **PART III—COMMUNICATIONS**

8 **SEC. 3071. COMMUNICATIONS.**

9 The Federal Communications Commission shall, not-
10 withstanding any other provision of law, assist in the enforce-
11 ment of or efforts to enforce any provision of Federal law
12 which prohibits the use or distribution of any controlled sub-
13 stance by seizing any communications equipment within the
14 jurisdiction of the Federal Communications Commission
15 under the Communications Act of 1934 (47 U.S.C. 151 et
16 seq.) that was owned by or licensed to any person who used
17 such equipment for purposes of using or distributing any such
18 substance. In addition, the Federal Communications Com-
19 mission shall revoke any license issued to any person under
20 the Communications Act of 1934 who is found to have acted
21 under such license for the purpose of using or distributing any
22 controlled substance in violation of any provision of Federal
23 law.

PART IV—HIGHWAY SAFETY

Subpart A—Commercial Motor Vehicle Safety Act of 1986

SEC. 3081. SHORT TITLE.

This subpart may be cited as the "Commercial Motor Vehicle Safety Act of 1986".

SEC. 3082. PURPOSE.

The purpose of this subpart is to enhance the safe operation of commercial motor vehicles on the Nation's highways by developing national uniform standards for the testing, licensing, and qualification of commercial motor vehicle operators, and by increasing inspections of commercial motor vehicle operators and the equipment they operate.

SEC. 3083. DEFINITIONS.

As used in this subpart, the term—

(1) "commerce" means—

(A) trade, traffic, or transportation within the jurisdiction of the United States between a place in a State and a place outside of such State (including a place outside of the United States); or

(B) trade, traffic, or transportation in the United States which affects any trade, traffic, or transportation described in subparagraph (A);

1 (2) "commercial motor vehicle" means any self-
2 propelled or towed vehicle used on highways in com-
3 merce to transport passengers or property if—
4 (A) such vehicle has a gross vehicle weight
5 rating of twenty-six thousand and one or more
6 pounds, or such lower weight rating (not less than
7 ten thousand pounds) as the Secretary considers
8 appropriate;
9 (B) such vehicle is designed to transport
10 more than fifteen passengers, including the driver;
11 or
12 (C) such vehicle is used in the transportation
13 of materials found by the Secretary to be hazard-
14 ous for the purposes of the Hazardous Materials
15 Transportation Act (49 App. U.S.C. 1801 et
16 seq.);
17 (3) "controlled substance" shall have the meaning
18 given to such term in section 102(6) of the Compre-
19 hensive Drug Abuse Prevention and Control Act of
20 1970 (21 U.S.C. 802(6));
21 (4) "employee" means an operator of a commer-
22 cial motor vehicle (including an independent contractor
23 while in the course of operating a commercial motor
24 vehicle) who is employed by an employer and who in

1 the course of his or her employment directly affects
2 commercial motor vehicle safety;
3 (5) "employer" means any person engaged in a
4 business in commerce who owns or leases a commer-
5 cial motor vehicle in connection with such business, or
6 assigns employees to operate such vehicle;
7 (6) "Secretary" means the Secretary of Transpor-
8 tation; and
9 (7) "State" means a State of the United States,
10 the District of Columbia, the Commonwealth of Puerto
11 Rico, the Virgin Islands, American Samoa, or the
12 Commonwealth of the Northern Marianas.

13 SEC. 3084. NATIONAL UNIFORM COMMERCIAL MOTOR VEHI-
14 CLE OPERATORS LICENSE.

15 (a)(1) Not later than March 1, 1988, the Secretary shall,
16 in accordance with section 553 of title 5, United States Code,
17 promulgate regulations which establish minimum Federal
18 standards for the licensing, testing, qualifications, and classi-
19 fication of operators of commercial motor vehicles. Such reg-
20 ulations shall, at a minimum—
21 (A) prohibit any person who operates a commer-
22 cial motor vehicle in commerce from possessing more
23 than one license to operate a commercial motor
24 vehicle;

1 (B) establish minimum Federal standards for writ-
2 ten tests and driving tests of persons who operate such
3 vehicles;
4 (C) require a driving test of each person who op-
5 erates or will operate a commercial motor vehicle in
6 commerce in the type of vehicle such person operates
7 or will operate, except that the Secretary may, by reg-
8 ulation, permit any State to waive such test in the case
9 of any such person who applies for renewal of a license
10 to operate a commercial motor vehicle;
11 (D) establish minimum scores for passing such
12 tests;
13 (E) ensure that each person taking such tests is
14 qualified to operate a commercial motor vehicle in
15 commerce under regulations promulgated under this
16 section, regulations contained in subpart E of part 391
17 of title 49 of the Code of Federal Regulations, and
18 such other Federal Motor Carrier Safety Regulations
19 contained in title 49 of the Code of Federal Regula-
20 tions as the Secretary considers appropriate;
21 (F) establish a schedule of offenses and corre-
22 sponding suspensions, revocations, and cancellations for
23 cause of licenses to operate commercial motor vehicles,
24 which shall include requirements for the prompt sus-
25 pension, for a period of not less than one year, of the

1 operator's license of any individual who is determined
2 to have a blood alcohol content level of 0.04 percent or
3 more while operating a commercial motor vehicle or
4 who refuses to submit to such a test or who is found to
5 be operating a commercial motor vehicle while under
6 the influence of a controlled substance or who refuses
7 to submit to such a test, and for the immediate revoca-
8 tion of the operator's license of any individual who has
9 been twice determined to have a blood alcohol content
10 level of 0.04 percent or more while operating a com-
11 mercial motor vehicle or who has twice refused to
12 submit to such a test, or who has been twice deter-
13 mined to have operated a commercial motor vehicle
14 while under the influence of a controlled substance or
15 who has twice refused to submit to such a test;
16 (G) establish a system of classification for licens-
17 ing that provides different minimum Federal testing
18 standards for operation of different classes of commer-
19 cial motor vehicles; and
20 (H) provide that each license to operate a com-
21 mercial motor vehicle shall contain, at a minimum—
22 (i) the legal name, date of birth (including
23 day, month, and year), sex, and a physical de-
24 scription of the person to whom such license is
25 issued;

1 (ii) other identifying information which the
2 Secretary considers necessary or appropriate;
3 (iii) the type of commercial motor vehicle
4 which such person is authorized to operate under
5 such license;
6 (iv) the name of the State which issued such
7 license; and
8 (v) the dates between which such license is
9 valid.
10 (2) Not later than March 1, 1988, the Secretary shall, in
11 accordance with section 553 of title 5, United States Code,
12 promulgate regulations which shall be in addition to regula-
13 tions promulgated under paragraph (1) of this subsection and
14 which shall establish minimum Federal standards for the li-
15 censing, testing, qualifications, and classification of any
16 person who operates or will operate a commercial motor ve-
17 hicle carrying a hazardous material (as defined in section
18 103(2) of the Hazardous Materials Transportation Act (49
19 App. U.S.C. 1802(2)). Such regulations shall—
20 (A) ensure that such person is qualified to operate
21 a commercial motor vehicle in accordance with all reg-
22 ulations pertaining to motor vehicle transportation of
23 such hazardous material issued by the Secretary under
24 the Hazardous Materials Transportation Act (49 App.
25 U.S.C. 1801 et seq.);

1 (B) establish minimum Federal standards for, and
2 scores for passing, written tests which ensure that such
3 person is knowledgeable regarding (i) all such regula-
4 tions, (ii) the basic properties and handling of such haz-
5 ardous material, and (iii) the appropriate response to
6 emergencies arising out of the transportation of such
7 hazardous material; and
8 (C) establish minimum Federal standards for driv-
9 ing tests which ensure that such person is knowledgea-
10 ble regarding the type of vehicle that such person oper-
11 ates or will operate and regarding the safety system of
12 such vehicle.
13 The Secretary may exempt any such person from any re-
14 quirement of this subpart if the material to be transported is a
15 hazardous material listed pursuant to section 306(a) of the
16 Environmental Response, Compensation, and Liability Act of
17 1980 (42 U.S.C. 9656(a)) and is not otherwise regulated by
18 the Department of Transportation, or if the material to be
19 transported is a consumer commodity or limited quantity haz-
20 ardous material, as defined in section 171.8 of title 49 of the
21 Code of Federal Regulations.
22 (3)(A) Section 521(b) of title 49, United States Code, is
23 amended—
24 (i) by redesignating paragraphs (12) and (13) as
25 paragraphs (13) and (14), respectively; and

1 (ii) by inserting immediately after paragraph (11)
2 the following:
3 "(12) The provisions of this subsection shall apply to
4 any violation of the Commercial Motor Vehicle Safety Act of
5 1986, except that—
6 "(A) the amount to be assessed under this subsec-
7 tion for any such violation shall not exceed $5,000 for
8 each such violation; and
9 "(B) the exceptions regarding employees in para-
10 graphs (2) and (6) of this subsection shall not apply to
11 any violation of the Commercial Motor Vehicle Safety
12 Act of 1986, but (i) in the case of paragraph (2) of this
13 subsection, the amount to be assessed for a violation of
14 the Commercial Motor Vehicle Safety Act of 1986 by
15 an employee shall not exceed $5,000 for each such
16 violation, and (ii) in the case of paragraph (6) of this
17 subsection, the penalty to be imposed for a violation of
18 the Commercial Motor Vehicle Safety Act of 1986 by
19 an employee shall not exceed $5,000 for each such
20 violation or imprisonment for a term not to exceed one
21 year, or both.".
22 (B) The Secretary shall establish guidelines for civil and
23 criminal penalties to be imposed by the States for a violation
24 of this subsection. Such penalties shall not exceed $5,000 for

1 each such violation, and shall not provide for imprisonment of
2 more than one year.
3 (b)(1) No person may operate a commercial motor vehi-
4 cle in commerce unless such person—
5 (A) complies with all requirements imposed by
6 regulations promulgated under subsection (a) of this
7 section; and
8 (B) has a blood alcohol content level of less than
9 0.04 percent while operating a commercial motor
10 vehicle.
11 (2)(A) Except as provided in subparagraph (B) of this
12 paragraph, paragraph (1) of this subsection shall become ap-
13 plicable with respect to any person who operates or will op-
14 erate a commercial motor vehicle in commerce on the date on
15 which the State in which such person is domiciled adopts a
16 classified licensing program under subsection (c)(1) of this
17 section or September 1, 1989, whichever is earlier, except
18 that, with respect to a person to whom a license to operate a
19 commercial motor vehicle has been issued on or before such
20 applicable date, who has not been found to have violated a
21 State or local law relating to motor vehicle traffic control
22 (other than a parking violation) in the three-year period
23 ending on such date, and who has not been disqualified by the
24 Secretary pursuant to title 49 of the Code of Federal Regula-
25 tions from operating a commercial motor vehicle in commerce

1 or has had a license to operate a commercial motor vehicle
2 suspended, revoked, or canceled for cause at any time during
3 such three-year period, paragraph (1) of this subsection shall
4 only take effect on the date after such date on which—
5 (i) such license is required to be renewed under
6 State law,
7 (ii) such person is found to have violated such a
8 State or local law, or
9 (iii) such person is disqualified pursuant to title 49
10 of the Code of Federal Regulations by the Secretary
11 from operating a commercial motor vehicle in com-
12 merce and has had such person's license suspended, re-
13 voked, or canceled for cause by a State,
14 whichever is earliest.
15 (B) If any such person is not domiciled in a State that
16 has adopted such a classified licensing program, the Secre-
17 tary may, in accordance with regulations to be prescribed by
18 the Secretary, permit such person to obtain a license to oper-
19 ate a commercial motor vehicle from any State that has
20 adopted such a program.
21 (c) On or before September 1, 1989, each State shall, at
22 a minimum—
23 (1) adopt and administer a classified licensing pro-
24 gram for the issuance of licenses to operate commercial
25 motor vehicles that includes testing and qualification

1 standards for persons who operate commercial motor
2 vehicles in commerce in accordance with all of the
3 minimum Federal standards established by the Secre-
4 tary under subsection (a) of this section, which pro-
5 gram (A) may include standards for its domiciliaries
6 that are more stringent than the minimum Federal
7 standards established by the Secretary under subsec-
8 tion (a) of this section; and (B) shall provide that such
9 State shall recognize any license issued by another
10 State if such license meets all of the Federal minimum
11 standards established by the Secretary under subsec-
12 tion (a) of this section;
13 (2) not issue a license to operate a commercial
14 motor vehicle to a person unless such person passes a
15 written test and driving test for the operation of a
16 commercial motor vehicle which complies with such
17 minimum standards and complies with all requirements
18 imposed by regulations promulgated under subsection
19 (a) of this section;
20 (3) ensure that each classified license to operate a
21 commercial motor vehicle contains the information de-
22 scribed in subsection (a)(1)(H) of this section;
23 (4) until the information system established under
24 section 5 of this Act provides a means of rapid commu-
25 nication of the information specified in such section, (A)

1 notify the Secretary, before the issuance of a classified
2 license to operate a commercial motor vehicle, of the
3 proposed issuance of such license and such other infor-
4 mation as the Secretary may require to ensure identifi-
5 cation of the person applying for such license; (B)
6 within 30 days after issuance of a classified license to
7 operate a commercial motor vehicle, notify the Secre-
8 tary of the issuance of such a license; and (C) maintain
9 information regarding and, upon the request of another
10 State, transmit to such State or, upon the request of
11 an employer or prospective employer, transmit at such
12 State's option to such employer or prospective employ-
13 er, to the extent permitted by law, information regard-
14 ing (i) any suspension, revocation, or cancellation for
15 cause of such a license and any disqualification pursu-
16 ant to title 49 of the Code of Federal Regulations of
17 the holder of such a classified license from operating a
18 commercial motor vehicle for a period of 60 days or
19 more, (ii) a decision to deny for cause a license to a
20 person applying for such a license, or (iii) the convic-
21 tion of the holder of such a classified license of any of
22 the offenses specified in section 3085(b)(2) of this sub-
23 part;
24 (5) when the information system established under
25 section 3085 of this subpart allows for the rapid com-

1 munication of information, comply with the require-
2 ments of all regulations within such time periods as the
3 Secretary establishes under section 3085(d) of this sub-
4 part, including a requirement that the State shall re-
5 spond to all requests for information from employers;
6 (6) before issuance of a classified license to oper-
7 ate a commercial motor vehicle, contact any other
8 State which has issued to such person such a license to
9 determine the driving record of such person and, if the
10 State determines as a result of such contact that such
11 person has been disqualified pursuant to title 49 of the
12 Code of Federal Regulations from operating a commer-
13 cial motor vehicle by the Secretary, or has had a li-
14 cense suspended, revoked, or canceled for cause for
15 violation of an offense pursuant to subsection (a)(1)(F)
16 of this section, within three years before application
17 has been made for such a classified license, not issue
18 such a classified license to such person;
19 (7) not issue a classified license to operate a com-
20 mercial motor vehicle to any person to whom such a
21 license has been issued by any other State unless such
22 person first returns such license issued by such other
23 State;
24 (8) prior to issuing a classified license to operate a
25 commercial motor vehicle to any person, consult the

1 National Driver Register established pursuant to the
2 National Driver Register Act of 1982 (23 U.S.C. 401,
3 note) (after such Register is determined by the Secre-
4 tary to be operational) to determine whether such
5 person has either been disqualified from operating a
6 motor vehicle other than a commercial motor vehicle,
7 or has had a license other than a license to operate a
8 commercial motor vehicle suspended, revoked, or can-
9 celed for cause, within three years before application
10 has been made for such a classified license, or has been
11 convicted of any of the offenses specified in section
12 205(a) of the National Driver Register Act of 1982
13 and, if the State is informed that such person has been
14 so disqualified or convicted or such license has been
15 suspended, revoked, or canceled for cause, not issue a
16 classified license to operate a commercial motor vehicle
17 to such person;
18 (9) impose such penalties for a violation of subsec-
19 tion (a) of this section as the State determines appro-
20 priate, if such penalties are the same as or more strin-
21 gent than the guidelines established by the Secretary in
22 subsection (b)(3)(B) of this section; and
23 (10) suspend, revoke, or cancel, in accordance
24 with subsection (a)(1)(F) of this section, a license to op-
25 erate a commercial motor vehicle.

1 (d)(1) The Secretary may make a grant to a State in a
2 fiscal year if the State enters into an agreement with the
3 Secretary to comply with all provisions of subsection (c) of
4 this section.

5 (2) The amount of a grant under this subsection to any
6 State shall not be less than $100,000 in any fiscal year.

7 (3) The Secretary may not make a grant to any State
8 under this subsection unless such State agrees that the ag-
9 gregate expenditure of funds of the State, exclusive of Feder-
10 al funds, for testing and licensing of operators of commercial
11 motor vehicles will be maintained at a level which does not
12 fall below the average level of such expenditure for the last
13 two fiscal years preceding the date of enactment of this Act.

14 (4) A State which receives a grant under this subsection
15 may use the funds provided under such grant only for testing
16 and licensing of operators of commercial motor vehicles.

17 (5) A grant made under this subsection shall be for a
18 period of one year.

19 (6) Funds made available to carry out this subsection
20 shall remain available for obligation by the Secretary for the
21 fiscal year in which such funds are made available and the
22 three fiscal years after such fiscal year.

23 (7) There shall be available to the Secretary to carry out
24 this subsection—

1 (A) $5,000,000 from funds made available to
2 carry out section 404 of the Surface Transportation
3 Assistance Act of 1982 (49 App. U.S.C. 2304) for
4 each of fiscal years 1987, 1988, 1989, 1990, and
5 1991; and
6 (B) after deducting the amount permitted under
7 section 402(c) of title 23, United States Code,
8 $3,000,000 from funds made available to carry out
9 section 402 of title 23, United States Code, by the Na-
10 tional Highway Traffic Safety Administration, for each
11 of fiscal years 1987, 1988, 1989, 1990, and 1991.
12 (e)(1) The Secretary shall withhold highway funds from
13 any State that is not in compliance with this section after
14 September 30, 1992.
15 (2) The Secretary shall withhold 5 percent of the
16 amount required to be apportioned to any State under each of
17 sections 104(b)(1), 104(b)(2), 104(b)(5), and 104(b)(6) of title
18 23, United States Code, on the first day of the fiscal year
19 beginning after September 30, 1992, in which the State does
20 not comply with any requirement of subsection (c) of this sec-
21 tion (other than a requirement of subsection (c)(10) of this
22 section).
23 (3) The Secretary shall withhold 10 percent of the
24 amount required to be apportioned to any State under each of
25 sections 104(b)(1), 104(b)(2), 104(b)(5), and 104(b)(6) of such

1 title on the first day of the second fiscal year beginning after
2 September 30, 1992, and the first day of each fiscal year
3 thereafter, in which the State does not comply with any re-
4 quirement of subsection (c) of this section (other than a re-
5 quirement of subsection (c)(10) of this section).

6 (4)(A) The Secretary shall withhold 2 percent of the
7 amount required to be apportioned to any State under each of
8 sections 104(b)(1), 104(b)(2), 104(b)(5), and 104(b)(6) of title
9 23, United States Code, on the first day of the fiscal year
10 beginning after September 30, 1992, in which the State does
11 not comply with any requirement of subsection (c)(10) of this
12 section.

13 (B) The Secretary shall withhold not less than 2 percent
14 nor more than 5 percent, as the Secretary determines to be
15 appropriate, of the amount required to be apportioned to any
16 State under each of sections 104(b)(1), 104(b)(2), 104(b)(5),
17 and 104(b)(6) of such title on the first day of the second
18 through fifth fiscal years beginning after September 30,
19 1992, in which the State does not comply with any require-
20 ment of subsection (c)(10) of this section.

21 (C) The Secretary shall withhold not less than 5 percent
22 of the amount required to be apportioned to any State under
23 each of sections 104(b)(1), 104(b)(2), 104(b)(5), and 104(b)(6)
24 of such title on the first day of the sixth fiscal year, and each
25 fiscal year thereafter, beginning after September 30, 1992, in

1 which the State does not comply with any requirement of
2 subsection (c)(10) of this section.
3 (5)(A) Any funds withheld under this subsection from
4 apportionment to any State after September 30, 1992, shall
5 remain available for apportionment to such State as follows:
6 (i) If such funds would have been apportioned
7 under section 104(b)(5)(A) of title 23, United States
8 Code, but for this subsection, such funds shall remain
9 available until the end of the fiscal year for which such
10 funds are authorized to be appropriated.
11 (ii) If such funds would have been apportioned
12 under section 104(b)(5)(B) of title 23, United States
13 Code, but for this subsection, such funds shall remain
14 available until the end of the second fiscal year follow-
15 ing the fiscal year for which such funds are authorized
16 to be appropriated.
17 (iii) If such funds would have been apportioned
18 under section 104(b)(1), 104(b)(2), or 104(b)(6) of title
19 23, United States Code, but for this subsection, such
20 funds shall remain available until the end of the third
21 fiscal year following the fiscal year for which such
22 funds are authorized to be appropriated.
23 (B) If, before the last day of the period for which funds
24 withheld under this subsection from apportionment are to
25 remain available for apportionment to a State under subpara-

1 graph (A) of this paragraph, the State complies with the pro-
2 visions of this section, the Secretary shall, on the day follow-
3 ing the date on which such State complies, apportion to such
4 State the withheld funds remaining available for apportion-
5 ment to such State.

6 (C) Any funds apportioned pursuant to subparagraph (B)
7 of this paragraph shall remain available for expenditure as
8 follows:

9 (i) Funds apportioned under section 104(b)(5)(A) of
10 title 23, United States Code, shall remain available
11 until the end of the fiscal year succeeding the fiscal
12 year in which such funds are so apportioned.

13 (ii) Funds apportioned under section 104(b)(1),
14 104(b)(2), 104(b)(5)(B), or 104(b)(6) of title 23, United
15 States Code, shall remain available until the end of the
16 third fiscal year succeeding the fiscal year in which
17 such funds are so apportioned.

18 Sums not obligated at the end of such period shall lapse.

19 (D) If, at the end of the period for which funds withheld
20 under this subsection from apportionment are available for
21 apportionment to a State under subparagraph (A) of this
22 paragraph, the State has not complied with the provisions of
23 this section, such funds shall lapse.

1 SEC. 3085. COMMERCIAL DRIVER'S LICENSE INFORMATION
2 SYSTEM.

3 (a) Not later than January 1, 1989, the Secretary, after
4 consultation with the States, shall cause to be in operation an
5 information system pertaining to the driving status and li-
6 censing of operators of commercial motor vehicles. The infor-
7 mation system shall serve as a clearinghouse by which the
8 States may communicate rapidly concerning the licensing,
9 identification, and driving records of operators of commercial
10 motor vehicles.

11 (b) The information system established under this section
12 shall—

13 (1) provide for a depository of information that
14 will, at a minimum, include (with respect to each oper-
15 ator of a commercial motor vehicle)—

16 (A) the birth date and physical description of
17 such operator, and any other information which
18 the Secretary considers necessary or appropriate
19 to identify specifically such operator;

20 (B) the address of such operator; and

21 (C) all States in which such operator cur-
22 rently has a license to operate a commercial
23 motor vehicle; and

24 (2) provide a system of communication among
25 States that, at a minimum, shall provide exchange of
26 information specified in paragraph (1) of this subsection

1 and information regarding whether such operator has
2 been denied a license to operate a commercial motor
3 vehicle, has been disqualified by the Secretary pursuant
4 to title 49 of the Code of Federal Regulations from op-
5 erating a commercial motor vehicle, has had a license
6 suspended, revoked, or canceled for cause, or has been
7 convicted under the laws of any State for (A) operating
8 a commercial motor vehicle while under the influence
9 of, or impaired by, alcohol or a controlled substance;
10 (B) violating a traffic rule or ordinance arising in con-
11 nection with a fatal traffic accident, reckless driving, or
12 racing on the highways and involving a commercial
13 motor vehicle; (C) failing to render aid or provide iden-
14 tification when involved in an accident involving a
15 commercial motor vehicle which resulted in a fatality
16 or personal injury; or (D) committing perjury or know-
17 ingly making a false affidavit or statement to officials
18 in connection with activities governed by a law or reg-
19 ulation relating to the operation of a commercial motor
20 vehicle.
21 (c)(1) Upon request of a State, the Secretary or a State,
22 as appropriate, shall make available to the requesting State
23 information in the information system established under this
24 section. Upon request of an employer or prospective employ-
25 er of an employee, the Secretary or a State, as appropriate,

1 shall, to the extent otherwise permitted by law, make avail-
2 able to such employer or prospective employer information in
3 such system relating to such employee.

4 (2) Any prospective employer of a person as an operator
5 of a commercial motor vehicle shall consult the information
6 system established under this section to determine, prior to
7 employing such person, whether a license to operate a com-
8 mercial motor vehicle issued to such person has been sus-
9 pended, revoked, or canceled for cause. If such prospective
10 employer determines, as a result of such consultation, that
11 such person's license has been suspended, revoked, or can-
12 celed for cause, the prospective employer shall not employ
13 such person as an operator of a commercial motor vehicle.

14 (d) When the information system required by this sec-
15 tion has become available, the Secretary shall issue regula-
16 tions establishing appropriate time periods for transmission of
17 information, as provided in paragraphs (4) and (5) of section
18 3084(c) of this Act.

19 (e) The Secretary shall establish and the Secretary or a
20 State, as appropriate, shall collect fees for utilization of the
21 information system established under this section. The
22 amount of fees collected by the Secretary or a State under
23 this subsection in any fiscal year shall as nearly as possible
24 equal the costs of operating the information system in such
25 fiscal year. The Secretary shall deposit fees collected by the

1 Secretary under this subsection in the general fund of the
2 Treasury.
3 (f) There shall be available for fiscal year 1987 to the
4 Secretary for purposes of establishing the information system
5 under this section not to exceed $2,000,000 from funds made
6 available to carry out section 404 of the Surface Transporta-
7 tion Assistance Act of 1982 (49 App. U.S.C. 2304). Such
8 sums shall remain available until expended.
9 **SEC. 3086. FREQUENT INSPECTIONS.**
10 (a) Section 402(b)(1) of the Surface Transportation
11 Assistance Act of 1982 (49 App. U.S.C. 2302(b)(1)) is
12 amended—
13 (1) by striking "and" at the end of subparagraph
14 (F);
15 (2) by striking the period in subparagraph (G) and
16 inserting in lieu thereof "; and"; and
17 (3) by adding at the end thereof the following:
18 "(H) with respect to any fiscal year beginning
19 with fiscal year 1989, provides for the adoption and
20 implementation of an effective program to conduct in-
21 spections of commercial motor vehicles, which program
22 shall provide—
23 "(i) that commercial motor vehicles are in-
24 spected frequently (as determined by the Secre-

1 tary), and that such inspections are conducted at
2 roadside;
3 "(ii) for the administration of observations or
4 tests, or both, to determine the blood alcohol con-
5 tent level of the operator of a commercial motor
6 vehicle; and
7 "(iii) for the prompt suspension, for a period
8 of not less than one year, of the operator's license
9 of any individual who is determined, as a result of
10 an observation or test administered under clause
11 (ii) of this subparagraph, to have a blood alcohol
12 content level of 0.04 percent or more while oper-
13 ating a commercial motor vehicle or who refuses
14 to submit to such a test, and for the immediate
15 revocation of the operator's license of any individ-
16 ual who has been twice determined, as a result of
17 such an observation or test, to have a blood alco-
18 hol content level of 0.04 percent or more while
19 operating a commercial motor vehicle or who has
20 twice refused to submit to such a test.".
21 (b) Section 402(b) of the Surface Transportation Assist-
22 ance Act of 1982 (49 App. U.S.C. 2302(b)) is amended by
23 adding at the end thereof the following:
24 "(3)(A) As part of a grant made under this subsection,
25 the Secretary may also provide funds to encourage the States

1 to adopt and implement programs providing for the adminis-
2 tration of tests to determine whether the operator of a com-
3 mercial motor vehicle is under the influence of a controlled
4 substance while operating such motor vehicle.

5 "(B) For purposes of this subsection, the term 'con-
6 trolled substance' shall have the meaning given to such term
7 in section 102(6) of the Comprehensive Drug Abuse Preven-
8 tion and Control Act of 1970 (21 U.S.C. 802(6)).".

9 **SEC. 3087. AUTHORIZATIONS OF APPROPRIATIONS.**

10 (a) Section 404 of the Surface Transportation Assist-
11 ance Act of 1982 (49 App. U.S.C. 2304) is amended—

12 (1) by striking "$40,000,000" and inserting in
13 lieu thereof "$50,000,000";

14 (2) by striking "and" after "1987,";

15 (3) by striking "$50,000,000" and inserting in
16 lieu thereof "$60,000,000"; and

17 (4) by striking "1988." and inserting in lieu
18 thereof "1988; not to exceed $70,000,000 in the fiscal
19 year ending September 30, 1989; and not to exceed
20 $80,000,000 in the fiscal year ending September 30,
21 1990.".

22 (b) Any activity of the Secretary under this subpart shall
23 only be undertaken to the extent that appropriations have
24 been made available in advance for such activity.

1 **Subpart B—Motor Vehicle Safety**

2 **SEC. 3091. MOTOR VEHICLE SAFETY.**

3 (a) The Congress finds that—

4 (1) the use of controlled substances by an operator
5 of a motor vehicle impairs the ability of such an opera-
6 tor to operate a motor vehicle in a safe manner;

7 (2) currently, the most effective procedure for
8 testing whether such an operator is under the influence
9 of a controlled substance is a test which measures the
10 content of any such substance in the blood of such
11 operator;

12 (3) several States have enacted laws providing for
13 the administration of such tests, under proper medical
14 supervision, where a law enforcement officer of such
15 State has a reasonable basis for believing that an oper-
16 ator of a motor vehicle is under the influence of a con-
17 trolled substance; and

18 (4) such State laws are effective in promoting the
19 safe operation of motor vehicles because such laws pro-
20 vide for the suspension or revocation of a license to op-
21 erate a motor vehicle if the operator refuses to submit
22 to such testing.

23 (b) It is therefore the sense of the Senate that the States
24 should, as expeditiously as possible, enact laws and adopt
25 procedures which provide for the administration of tests

1 which measure the content of controlled substances in the
2 blood of any operator of a motor vehicle upon the direction of
3 a law enforcement officer when such officer has reasonable
4 grounds to believe that the operator is under the influence of
5 a controlled substance, and provide for the suspension or rev-
6 ocation of a license to operate a motor vehicle if the operator
7 refuses to submit to such testing.

8 (c) As used in this section, the term "controlled sub-
9 stance" has the meaning given to such term in section 102(6)
10 of the Controlled Substances Act (21 U.S.C. 802(6)).

11 **Subtitle C—Harmful Inhalants**

12 **SEC. 3101. OFFENSE.**

13 (a) Part I of title 18 of the United States Code is
14 amended by adding after chapter 53 the following new
15 chapter:

16 **"CHAPTER 54—HARMFUL INHALANTS**

"Sec.
"1181. Harmful inhalants.

17 **"§ 1181. Harmful inhalants.**

18 "(a) It shall be unlawful for any person to sell, offer to
19 sell, or advertise for sale to any person any material, product,
20 or article containing any substance having a property of re-
21 leasing vapors or fumes, which has been or is intended to be
22 transported in interstate commerce or deposited in the mails,
23 if he has knowledge or is in the possession of such facts that
24 he should have knowledge that the material, product, or arti-

1 cle sold or offered will be used for the purpose of intentionally
2 smelling or inhaling the vapors or fumes from the substance
3 for the purpose of producing in any person a condition of
4 intoxication or inebriation.

5 "(b) Any violation of subsection (a) shall be punishable
6 by imprisonment of not more than 5 years, or a fine of not
7 more than $250,000, or both.".

8 (b) The table of chapters for part I of title 18, United
9 States Code is amended by inserting after the item for chap-
10 ter 53 the following new item:

"54. Harmful Inhalants ..... 1181".

11 ## Subtitle D—Action Grants

12 **SEC. 3151. ACTION GRANTS.**

13 The Domestic Volunteer Service Act of 1973 is
14 amended—

15 (1) in title I by adding after section 123 the fol-
16 lowing new section:

17 "SPECIAL INITIATIVES

18 "SEC. 124. The Director is authorized to engage in ac-
19 tivities that mobilize and initiate private sector efforts to in-
20 crease voluntarism in preventing drug abuse through public
21 awareness and education (such as, but not limited to, grants,
22 contracts, conferences, public service announcements, speak-
23 ers bureau, public-private partnerships and technical assist-
24 ance to nonprofit and for-profit organizations). In fulfilling
25 the authority of this section, the Director is authorized to (1)

1 coordinate the agency efforts with the White House and
2 other Federal agencies, and (2) accept in the name of the
3 ACTION agency funds received through solicitation of profit
4 and nonprofit entities.";

5 (2) by amending subsection (c) of section 501 to
6 read as follows:

7 "(c) There is to be authorized to be appropriated to
8 carry out programs under part C of title I of this Act
9 $4,484,000 for the fiscal year 1987 (of which $2,500,000
10 shall be available for drug abuse prevention), $1,984,000 for
11 fiscal year 1988, and $1,984,000 for fiscal year 1989."; and

12 (3) by amending section 504 to read as follows:

13 "ADMINISTRATION AND COORDINATION

14 "SEC. 504. There is authorized to be appropriated for
15 the Administration of this Act, as authorized in title IV of
16 this Act, $25,812,000 for fiscal year 1987 (of which
17 $500,000 shall be available for support of drug abuse preven-
18 tion), $25,312,000 for fiscal year 1988, and $25,312,000 for
19 fiscal year 1989.".

20 **Subtitle E—Habeas Corpus Reform**

21 **SEC. 3201. SHORT TITLE.**

22 This subtitle may be cited as the "Reform of Federal
23 Intervention in State Proceedings Act of 1985".

1 **SEC. 3202. FAILURE TO RAISE CLAIM.**

2 Section 2244 of title 28, United States Code, is amend-
3 ed by adding at the end thereof the following new sub-
4 sections:

5 "(d) When a person in custody pursuant to the judgment
6 of a State court fails to raise a claim in State proceedings at
7 the time or in the manner required by State rules of proce-
8 dure, the claim shall not be entertained in an application for a
9 writ of habeas corpus unless actual prejudice resulted to the
10 applicant from the alleged denial of the Federal right asserted
11 and—

12 "(1) the failure to raise the claim properly or to
13 have it heard in State proceedings was the result of
14 State action in violation of the Constitution or laws of
15 the United States;

16 "(2) the Federal right asserted was newly recog-
17 nized by the Supreme Court subsequent to the proce-
18 dural default and is retroactively applicable; or

19 "(3) the factual predicate of the claim could not
20 have been discovered through the exercise of reasona-
21 ble diligence prior to the procedural default.

22 "(e) A one-year period of limitation shall apply to an
23 application for a writ of habeas corpus by a person in custody
24 pursuant to the judgment of a State court. The limitation
25 period shall run from the latest of the following times:

1 "(1) the time at which State remedies are ex-
2 hausted;
3 "(2) the time at which the impediment to filing an
4 application created by State action in violation of the
5 Constitution or laws of the United States is removed,
6 where the applicant was prevented from filing by such
7 State action;
8 "(3) the time at which the Federal right asserted
9 was initially recognized by the Supreme Court, where
10 the right has been newly recognized by the Court and
11 is retroactively applicable; or
12 "(4) the time at which the factual predicate of the
13 claim or claims presented could have been discovered
14 through the exercise of reasonable diligence.".

15 **SEC. 3203. APPEAL OF HABEAS CORPUS PROCEEDING.**

16 Section 2253 of title 28, United States Code, is amend-
17 ed to read as follows:

18 **"§ 2253. Appeal**

19 "In a habeas corpus proceeding or a proceeding under
20 section 2255 of this title before a circuit or district judge, the
21 final order shall be subject to review, on appeal, by the court
22 of appeals for the circuit where the proceeding is held.
23 "There shall be no right of appeal from such an order in
24 a proceeding to test the validity of a warrant to remove, to
25 another district or place for commitment or trial, a person

1 charged with a criminal offense against the United States,
2 or to test the validity of his detention pending removal
3 proceedings.

4 "An appeal may not be taken to the court of appeals
5 from the final order in a habeas corpus proceeding where the
6 detention complained of arises out of process issued by a
7 State court, or from the final order in a proceeding under
8 section 2255 of this title, unless a circuit justice or judge
9 issues a certificate of probable cause.".

10 **SEC. 3204. APPLICATION AND WRIT OF HABEAS CORPUS.**

11 Federal Rule of Appellate Procedure 22 is amended to
12 read as follows:

13 "RULE 22.

14 "HABEAS CORPUS AND § 2255 PROCEEDINGS

15 "(a) Application for an Original Writ of Habeas Corpus.
16 An application for a writ of habeas corpus shall be made to
17 the appropriate district court. If application is made to a cir-
18 cuit judge, the application will ordinarily be transferred to the
19 appropriate district court. If an application is made to or
20 transferred to the district court and denied, renewal of the
21 application before a circuit judge is not favored; the proper
22 remedy is by appeal to the court of appeals from the order of
23 the district court denying the writ.

24 "(b) Necessity of Certificate of Probable Cause for
25 Appeal. In a habeas corpus proceeding in which the deten-

1 tion complained of arises out of process issued by a State
2 court, and in a motion proceeding pursuant to section 2255 of
3 title 28, United States Code, an appeal by the applicant or
4 movant may not proceed unless a circuit judge issues a certif-
5 icate of probable cause. If a request for a certificate of proba-
6 ble cause is addressed to the court of appeals, it shall be
7 deemed addressed to the judges thereof and shall be consid-
8 ered by a circuit judge or judges as the court deems appropri-
9 ate. If no express request for a certificate is filed, the notice
10 of appeal shall be deemed to constitute a request addressed to
11 the judges of the court of appeals. If an appeal is taken by a
12 State or the government or its representative, a certificate of
13 probable cause is not required.".

14 **SEC. 3205. EXHAUSTION OF REMEDIES.**

15 Section 2254 of title 28, United States Code, is amend-
16 ed by redesignating subsections "(e)" and "(f)" as subsections
17 "(f)" and "(g)", respectively, and is further amended—

18 (1) by amending subsection (b) to read as follows:

19 "(b) An application for a writ of habeas corpus in behalf
20 of a person in custody pursuant to the judgment of a State
21 court shall not be granted unless it appears that the applicant
22 has exhausted the remedies available in the courts of the
23 State, or that there is either an absence of available State
24 corrective process or the existence of circumstances render-
25 ing such process ineffective to protect the rights of the appli-

1 cant. An application may be denied on the merits notwith-
2 standing the failure of the applicant to exhaust the remedies
3 available in the courts of the States.";

4 (2) by redesignating subsection "(d)" as subsection
5 "(e)", and amending it to read as follows:

6 "(e) In a proceeding instituted by an application for a
7 writ of habeas corpus by a person in custody pursuant to the
8 judgment of a State court, a full and fair determination of a
9 factual issue made in the case by a State court shall be pre-
10 sumed to be correct. The applicant shall have the burden of
11 rebutting this presumption by clear and convincing evi-
12 dence."; and

13 (3) by adding a new subsection (d) reading as
14 follows:

15 "(d) An application for a writ of habeas corpus in behalf
16 of a person in custody pursuant to the judgment of a State
17 court shall not be granted with respect to any claim that has
18 been fully and fairly adjudicated in State proceedings.".

19 **SEC. 3206. STATUTE OF LIMITATIONS.**

20 Section 2255 of title 28, United States Code, is amend-
21 ed by deleting the second paragraph and the penultimate
22 paragraph thereof, and by adding at the end thereof the fol-
23 lowing new paragraphs:

24 "When a person fails to raise a claim at the time or in
25 the manner required by Federal rules of procedure, the claim

1 shall not be entertained in a motion under this section unless
2 actual prejudice resulted to the movant from the alleged
3 denial of the right asserted and—

4 "(1) the failure to raise the claim properly, or to
5 have it heard, was the result of governmental action in
6 violation of the Constitution or laws of the United
7 States;

8 "(2) the right asserted was newly recognized by
9 the Supreme Court subsequent to the procedural de-
10 fault and is retroactively applicable; or

11 "(3) the factual predicate of the claim could not
12 have been discovered through the exercise of reasona-
13 ble diligence prior to the procedural default.

14 "A two-year period of limitation shall apply to a motion
15 under this section. The limitation period shall run from the
16 latest of the following times:

17 "(1) the time at which the judgment of conviction
18 becomes final;

19 "(2) the time at which the impediment to making
20 a motion created by governmental action in violation of
21 the Constitution or laws of the United States is re-
22 moved, where the movant was prevented from making
23 a motion by such governmental action;

24 "(3) the time at which the right asserted was ini-
25 tially recognized by the Supreme Court, where the

1 right has been newly recognized by the Court and is
2 retroactively applicable; or
3 "(4) the time at which the factual predicate of the
4 claim or claims presented could have been discovered
5 through the exercise of reasonable diligence.".

6 **Subtitle F—Armed Career Criminals**

7 **SEC. 3251. SERIOUS DRUG OFFENSES.**

8 (a) The second sentence of subsection (a) of section 1202
9 of title VII of the Omnibus Crime Control and Safe Streets
10 Act of 1968 (18 U.C.S. App. 1202(a)) is amended by striking
11 out "for robberty or burglary, or both," and inserting in lieu
12 thereof "for a crime of violence or a serious drug offense, or
13 both,".

14 (b) Subsection (c) of section 1202 of title VII of such
15 Act is amended by striking out paragraphs (8) and (9) and
16 inserting in lieu thereof:
17 "(8) 'serious drug offense' means an offense for
18 which a maximum term of imprisonment of ten years
19 or more is prescribed in the Controlled Substances Act
20 (21 U.S.C. 801 et seq.), the Controlled Substances
21 Import and Export Act (21 U.S.C. 951 et seq.), or
22 section 1 of the Act of September 15, 1980 (21 U.S.C.
23 955a et seq.); and

1 "(9) 'crime of violence' means any offense punish-
2 able by imprisonment for a term exceeding one year
3 that—
4 "(A) has as an element the use, attempted
5 use, or threatened use of physical force against
6 the person or property of another; or
7 "(B) by its nature, involves a substantial risk
8 that physical force against the person or property
9 of another may be used in the course of commit-
10 ting the offense.".

11 **Subtitle G—Prohibition on the Interstate Sale**
12 **and Transportation of Drug Paraphernalia**

13 **SEC. 3301. SHORT TITLE.**

14 This subtitle may be cited as the "Mail Order Drug Par-
15 aphernalia Control Act".

16 **SEC. 3302. OFFENSE.**

17 (a) It is unlawful for any person—
18 (1) to make use of the services of the Postal Serv-
19 ice as part of a scheme to sell any item which consti-
20 tutes drug paraphernalia; or
21 (2) to offer for sale and transportation in interstate
22 or foreign commerce any item which constitutes drug
23 paraphernalia.

1 (b) Anyone convicted of an offense under subsection (a)
2 of this section shall be imprisoned for not more than three
3 years and fined not more than $100,000.
4 (c) Any drug paraphernalia involved in any violation of
5 subsection (a) of this section shall be subject to seizure and
6 forfeiture. Any such paraphernalia shall be delivered to the
7 Administrator of General Services, General Services Admin-
8 istration, who may order such paraphernalia destroyed or
9 may authorize its use for law enforcement or educational pur-
10 poses by Federal, State, or local authorities.
11 (d) The term "drug paraphernalia" means any equip-
12 ment, product, or material of any kind which is primarily
13 intended or designed for use in manufacturing, compounding,
14 converting, concealing, producing, processing, preparing, in-
15 jecting, ingesting, inhaling, or otherwise introducing into the
16 human body a controlled substance in violation of the Con-
17 trolled Substances Act (title II of Public Law 91–513). It
18 includes, but is not limited to, items primarily intended or
19 designed for use in ingesting, inhaling, or otherwise introduc-
20 ing marijuana, cocaine, hashish, hashish oil, PCP, or amphe-
21 timines into the human body, such as:
22 (1) metal, wooden, acrylic, glass, stone, plastic, or
23 ceramic pipes with or without screens, permanent
24 screens, hashish heads, or punctured metal bowls;
25 (2) water pipes;

1 (3) carburetion tubes and devices;

2 (4) smoking and carburetion masks;

3 (5) roach clips: meaning objects used to hold burn-
4 ing material, such as a marihuana cigarette, that has
5 become too small or too short to be held in the hand;

6 (6) miniature spoons with level capacities of one-
7 tenth cubic centimeter or less;

8 (7) chamber pipes;

9 (8) carburetor pipes;

10 (9) electric pipes;

11 (10) air-driven pipes;

12 (11) chillums;

13 (12) bongs;

14 (13) ice pipes or chillers;

15 (14) wired cigarette papers; or

16 (15) cocaine freebase kits.

17 (e) In determining whether an item constitutes drug par-
18 aphernalia, in addition to all other logically relevant factors,
19 the following may be considered:

20 (1) instructions, oral or written, provided with the
21 item concerning its use;

22 (2) descriptive materials accompanying the item
23 which explain or depict its use;

24 (3) national and local advertising concerning its
25 use;

1 (4) the manner in which the item is displayed for
2 sale;
3 (5) whether the owner, or anyone in control of the
4 item, is a legitimate supplier of like or related items to
5 the community, such as a licensed distributor or dealer
6 of tobacco products;
7 (6) direct or circumstantial evidence of the ratio of
8 sales of the item(s) to the total sales of the business
9 enterprise;
10 (7) the existence and scope of legitimate uses of
11 the item in the community; and
12 (8) expert testimony concerning its use.
13 (f) This subtitle shall not apply to—
14 (1) manufacturers, wholesalers, jobbers, licensed
15 medical technicians, technologists, nurses, hospitals, re-
16 search teaching institutions, clinical laboratories, medi-
17 cal doctors, osteopathic physicians, dentists, chiropo-
18 dists, veterinarians, pharmacists, or embalmers in the
19 normal lawful course of their respective businesses or
20 professions and common carriers or warehousers or
21 their employees engaged in the lawful transportation of
22 such items;
23 (2) any person authorized by local, State, or Fed-
24 eral law to manufacture, possess, or distribute such
25 items; and

1 (3) any person or entity that, in the normal lawful
2 course of business, imports, exports, transports, or sells
3 through the mail or by any other means any pipe,
4 paper, or accessory primarily intended or designed for
5 use with tobacco products.
6 For purposes of clause (3), any pipe with a bowl depth of
7 one-half inch or greater shall be presumed to be intended or
8 designed for use with tobacco products.

9 **SEC. 3303. EFFECTIVE DATE.**

10 This subtitle shall become effective ninety days after the
11 date of enactment of this subtitle.

12 Subtitle H—International Narcotics Control
13 PART I—INTERAGENCY COORDINATING
14 COMMITTEE

15 **SEC. 3351. INTERAGENCY COORDINATING COMMITTEE.**

16 (a) It is the sense of the Congress that the drug problem
17 should be a high-priority national intelligence collection and
18 action target.

19 (b)(1) There is established an Inter-Agency Coordinat-
20 ing Committee for Drug-Related Intelligence Collection and
21 Action (hereafter in this subsection referred to as the "Com-
22 mittee"), which shall be composed of one representative from
23 each of the following intelligence agencies and from the intel-
24 ligence component of each of the following elements of the

1 United States Government, to be selected by the head of
2 such agency or element:
3 (A) The Central Intelligence Agency.
4 (B) The Department of Defense.
5 (C) The Defense Intelligence Agency.
6 (D) The National Security Agency.
7 (E) The Department of the Army, the Depart-
8 ment of the Navy, and the Department of the Air
9 Force.
10 (F) The Department of State.
11 (G) The Department of the Treasury.
12 (H) The Department of Energy.
13 (I) The Federal Bureau of Investigation.
14 (J) The Drug Enforcement Administration.
15 (2) The function of the Committee is—
16 (A) to set goals and targets and their degree of
17 priority for drug-related intelligence collection and
18 action;
19 (B) to coordinate the drug-related activities of the
20 intelligence components referred to in paragraph (1);
21 and
22 (C) to report to the Director of Central Intelli-
23 gence on its activities in carrying out clauses (A) and
24 (B).

1 (c) Not later than 12 months after the date of enactment
2 of this Act, and every 12 months thereafter, the Director of
3 Central Intelligence shall prepare and transmit to the Perma-
4 nent Select Committee on Intelligence of the House of Rep-
5 resentatives and the Select Committee on Intelligence of the
6 Senate a detailed report in classified form describing—
7 (1) what the intelligence components of the
8 United States Government have done during the pre-
9 ceding 12-month period to halt the flow of illegal
10 drugs;
11 (2) what such intelligence components intend to
12 do during the following 12-month period to halt the
13 flow of illegal drugs; and
14 (3) what actions could be taken to halt the flow of
15 illegal drugs if additional resources were made avail-
16 able to such intelligence components.

17 **PART II—DECLARATION; POLICY**

18 **SEC. 3361. DECLARATION; POLICY.**

19 The Congress hereby declares that drugs are a national
20 security problem and urges the President to explore the pos-
21 sibility of engaging such essentially security-oriented organi-
22 zations as the North Atlantic Treaty Organization (NATO) in
23 cooperative drug programs.

1 **PART III—REPORT**

2 **SEC. 3371. REPORT.**

3 (a) Not later than 12 months after the date of enactment
4 of this Act, and every 12 months thereafter, the President
5 shall prepare and transmit to the Congress a report—

6 (1) listing each country—

7 (A) which, as a matter of government policy,
8 encourages or facilitates the production or distri-
9 bution of illegal drugs;

10 (B) in which any senior official of the gov-
11 ernment of such country engages in, encourages,
12 or facilitates the production or distribution of ille-
13 gal drugs;

14 (C) in which any member of an agency of the
15 United States Government engaged in drug en-
16 forcement activities has suffered or been threat-
17 ened with violence, inflicted by or with the com-
18 plicity of any law enforcement or other officer of
19 such country or any political subdivision thereof;
20 or

21 (D) which, having been requested to do so by
22 the United States Government, fails to provide
23 reasonable cooperation to lawful activities of
24 United States drug enforcement agents, including
25 the refusal of permission to such agents engaged

1 in interdiction of aerial smuggling into the United
2 States to pursue suspected aerial smugglers a rea-
3 sonable distance into the airspace of the requested
4 country; and
5 (2) describing for each country listed under para-
6 graph (1) the activities and the identities of officials
7 whose activities caused such country to be so listed.
8 (b) No United States assistance may be furnished to the
9 United States representative to any multilateral development
10 bank shall vote to oppose any loan or other use of the funds
11 of such bank for the benefit of, any country listed under sub-
12 section (a)(1) unless the President certifies to the Congress
13 that—
14 (1) overriding national interests require the provi-
15 sion for such assistance;
16 (2) such assistance would improve the prospects
17 for cooperation with such country in halting the flow of
18 illegal drugs; and
19 (3) the government of such country has made
20 bona fide efforts to investigate and prosecute appropri-
21 ate charges for any crime described in subsection
22 (a)(1)(C) which may have been committed in such
23 country.

1 (c) For purposes of this section, the term "United States
2 assistance" has the same meaning as is given to such term by
3 section 481(i)(4) of the Foreign Assistance Act of 1961.

4 PART IV—INTERNATIONAL NARCOTICS
5 CONTROL ACT OF 1986

6 SEC. 3381. SHORT TITLE.

7 This part may be cited as the "International Narcotics
8 Control Act of 1986".

9 Subpart A—International Narcotics Control
10 Assistance Program

11 SEC. 3382. ADDITIONAL FUNDING FOR INTERNATIONAL NAR-
12 COTICS CONTROL ASSISTANCE AND REGIONAL
13 COOPERATION.

14 Section 482(a)(1) of the Foreign Assistance Act of 1961
15 (22 U.S.C. 2291a(a)(1); authorizing appropriations for assist-
16 ance for international narcotics control) is amended—

17 (1) by striking out "$57,529,000 for the fiscal
18 year 1987" and inserting in lieu thereof "$65,445,000
19 for the fiscal year 1987"; and

20 (2) by adding at the end the following: "In addi-
21 tion to the amounts authorized by the preceding sen-
22 tence, there are authorized to be appropriated to the
23 President $45,000,000 for the fiscal year 1987 to
24 carry out the purposes of section 481, except that
25 funds may be appropriated pursuant to this additional

1 authorization only if the President has submitted to the
2 Congress (A) a budget request for the appropriation of
3 those funds, and (B) a plan showing how the requested
4 funds will be used, including a description of how re-
5 gional cooperation on narcotics control matters would
6 be promoted by the use of those funds. Of the funds
7 authorized to be appropriated by the preceding sen-
8 tence, not less than $10,000,000 shall be available
9 only to provide helicopters or other aircraft to coun-
10 tries receiving assistance for fiscal year 1987 under
11 chapter 8 of part I of this Act (22 U.S.C. 2291 et
12 seq.; relating to international narcotics control). These
13 aircraft shall be used solely for narcotics control, eradi-
14 cation, and interdiction efforts and shall be available
15 primarily for use in Latin America.".

16 **SEC. 3383. RETENTION OF TITLE TO AIRCRAFT PROVIDED TO**
17 **MEXICO FOR NARCOTICS CONTROL PURPOSES.**

18 Chapter 8 of part I of the Foreign Assistance Act of
19 1961 (22 U.S.C. 2291 et seq.; relating to the international
20 narcotics control assistance program) is amended by adding
21 at the end the following new section:

22 **"SEC. 484. RETENTION OF TITLE TO AIRCRAFT.**

23 "Any aircraft made available to Mexico under this chap-
24 ter at any time after the enactment of this section (including
25 aircraft made available pursuant to section 102 of the Inter-

1 national Narcotics Control Act of 1986) shall be provided
2 only on a lease or loan basis.".

3 **SEC. 3384. RECORDS OF AIRCRAFT USE.**

4 Chapter 8 of part I of the Foreign Assistance Act of
5 1961 (22 U.S.C. 2291 et seq.; relating to the international
6 narcotics control assistance program), as amended by the pre-
7 ceding section of this part, is further amended by adding at
8 the end the following new section:

9 **"SEC. 485. RECORDS OF AIRCRAFT USE.**

10 "(a) REQUIREMENT TO MAINTAIN RECORDS.—The
11 Secretary of State shall maintain detailed records on the use
12 of any aircraft made available to Mexico under this chapter,
13 including aircraft made available pursuant to section 102 of
14 the International Narcotics Control Act of 1986 and aircraft
15 made available under this chapter before the enactment of
16 this section.

17 "(b) CONGRESSIONAL ACCESS TO RECORDS.—The
18 Secretary of State shall make the records maintained pursu-
19 ant to subsection (a) available to the Congress upon a request
20 of the Chairman of the Committee on Foreign Affairs of the
21 House of Representatives or the Chairman of the Committee
22 on Foreign Relations of the Senate.".

1 SEC. 3385. DEVELOPMENT OF HERBICIDES FOR AERIAL COCA
2 ERADICATION.

3 The Secretary of State shall use not less than
4 $1,000,000 of the funds made available for fiscal year 1987
5 to carry out chapter 8 of part I of the Foreign Assistance Act
6 of 1961 (22 U.S.C. 2291 et seq.; relating to international
7 narcotics control) to finance research on and the development
8 and testing of safe and effective herbicides for use in the
9 aerial eradication of coca.

10 SEC. 3386. REVIEW OF EFFECTIVENESS OF INTERNATIONAL
11 NARCOTICS CONTROL ASSISTANCE PROGRAM.

12 (a) REQUIREMENT FOR INVESTIGATION.—The Comp-
13 troller General shall conduct a thorough and complete inves-
14 tigation to determine the effectiveness of the assistance pro-
15 vided pursuant to chapter 8 of part I of the Foreign Assist-
16 ance Act of 1961 (22 U.S.C. 2291 et seq.; relating to inter-
17 national narcotics control).

18 (b) REPORTS TO CONGRESS.—

19 (1) PERIODIC REPORTS.—The Comptroller Gen-
20 eral shall report to the Congress periodically as the
21 various portions of the investigation conducted pursu-
22 ant to subsection (a) are completed.

23 (2) FINAL REPORT.—Not later than 18 months
24 after the date of enactment of this Act, the Comptrol-
25 ler General shall submit a final report to the Congress
26 on the results of the investigation. This report shall in-

1 clude such recommendations for administrative or legis-
2 lative action as the Comptroller General finds appropri-
3 ate based on the investigation.

4 Subpart B—Improving Law Enforcement and
5 Other Narcotics Control Activities Abroad

6 SEC. 3388. EXTRADITION TO THE UNITED STATES FOR NAR-
7 COTICS-RELATED OFFENSES.

8 Section 481(e)(3) of the Foreign Assistance Act of 1961
9 (22 U.S.C. 2291(e)(3); relating to the annual international
10 narcotics control report) is amended by inserting after sub-
11 paragraph (C) the following new subparagraph:

12 "(D) A discussion of the extent to which such
13 country has cooperated with the United States narcot-
14 ics control efforts through the extradition or prosecu-
15 tion of drug traffickers, and a description of the status
16 of negotiations with such country to negotiate a new
17 or updated extradition treaty relating to narcotics
18 offenses.".

19 SEC. 3389. INFORMATION-SHARING SO THAT VISAS ARE
20 DENIED TO DRUG TRAFFICKERS.

21 (a) NEED FOR COMPREHENSIVE INFORMATION
22 SYSTEM.—The Congress is concerned that the executive
23 branch has not established a comprehensive information
24 system on all drug arrests of foreign nationals in the United
25 States so that information may be communicated to the ap-

1 propriate United States embassies, even though the establish-
2 ment of such a system is required by section 132 of the For-
3 eign Relations Authorization Act, Fiscal Years 1986 and
4 1987.

5 (b) ESTABLISHMENT OF SYSTEM.—The executive
6 branch shall act expeditiously to establish the comprehensive
7 information system required by section 132 of the Foreign
8 Relations Authorization Act, Fiscal Years 1986 and 1987,
9 and submit to the Congress a report that the system has been
10 established.

11 **SEC. 3390. ASSESSMENT OF NARCOTICS TRAFFICKING FROM**
12 **AFRICA.**

13 The President shall direct that an updated threat assess-
14 ment of narcotics trafficking from Africa be prepared. If it is
15 determined that an increased threat exists, the assessment
16 shall examine the need for the United States to provide in-
17 creased narcotics control training for African countries.

18 **SEC. 3391. ADMINISTRATION OF JUSTICE.**

19 (a) The Congress of the United States finds that an es-
20 sential element in controlling the production and trafficking
21 in illicit drugs in Latin America and the Caribbean are
22 strengthened national and regional institutions concerned
23 with the effective, humane, and professional administration of
24 justice.

1 (b) Section 534 of the Foreign Assistance Act of 1961 is
2 amended—
3 (1) by amending subsection (b)(3) to read as fol-
4 lows:
5 "(3) programs to enhance investigative, forensic,
6 enforcement, corrections, and related ancillary func-
7 tions integral to humane and effective professional sys-
8 tems of criminal justice;"; and
9 (2) by amending subsection (e) to read as follows:
10 "(e) Assistance under this section may be provided with-
11 out regard to section 660 of this Act and, in the case of
12 participation in regional and multilateral projects and activi-
13 ties, without regard to any other provision of law. Each noti-
14 fication under subsection (d) with respect to assistance that
15 would be prohibited but for the enactment of this subsection
16 shall specify why the assistance should be provided notwith-
17 standing an otherwise applicable prohibition.".
18 (c) Notwithstanding section 660 of the Foreign Assist-
19 ance Act of 1961, of amounts made available for fiscal year
20 1987 to carry out section 534 of the Foreign Assistance Act
21 of 1961 (22 U.S.C. 2346c; relating to the administration of
22 justice program), up to $2,000,000 is authorized to be used
23 to provide Colombia or any other country in the region such
24 assistance as such country may request for the protection of
25 judicial or other officials who are, or may be, targets of nar-

1 coterrorist attacks. Such assistance may include assistance to
2 increase the investigative, judicial, or prosecutorial capabili-
3 ties of such country with respect to narcoterrorist attacks.
4 (d) At the end of subsection 116(e)(1) of the Foreign
5 Assistance Act of 1961 (relating to funds to promote adher-
6 ence to and respect for human rights) add the following new
7 sentence: "Nothing in section 660 of this Act shall preclude
8 the participation in programs or activities authorized under
9 this subsection of individuals who are members of the police
10 or other law enforcement forces of a foreign government or
11 who are engaged in the administration of foreign penal
12 institutions.".

13 **SEC. 3392. MONEY LAUNDERING AND MUTUAL LEGAL ASSIST-**
14 **ANCE TREATIES.**

15 Section 481 of the Foreign Assistance Act of 1961 is
16 amended—
17 (1) in the text of subsection (h)(1) above clause
18 (A), by inserting after "United States" the second
19 place it appears the following: ", or if the President
20 determines that a country has failed to take adequate
21 steps to prevent and punish the laundering in that
22 country of drug-related profits or drug-related monies";
23 (2) in subsection (h)(2)—
24 (A) by redesignating paragraph (2) as para-
25 graph (2)(A); and

1 (B) by adding at the end thereof the follow-
2 ing new subparagraph:
3 "(B) The President shall also consider whether such
4 government has taken the legal and law enforcement steps
5 necessary to eliminate, to the maximum extent possible, the
6 laundering in that country of drug-related profits or drug-
7 related monies, as evidenced by the enactment and enforce-
8 ment of laws prohibiting such conduct, the willingness of
9 such government to enter into mutual legal assistance agree-
10 ments with the United States governing money laundering,
11 and the degree to which such government otherwise cooper-
12 ates with United States law enforcement authorities on anti-
13 money laundering efforts.";
14 (3) in clause (B) of subsection (h)(3), by inserting
15 after "controlled substances" the following: ", or to
16 enforce prohibitions on the laundering in that country
17 of drug-related profits or drug-related monies"; and
18 (4) by adding at the end of subsection (e) the fol-
19 lowing new paragraph:
20 "(6) Each report pursuant to this subsection shall identi-
21 fy those countries which are significant centers of drug-
22 money laundering and shall contain a description of the plans,
23 programs, and timetables adopted by such country for the
24 deterrence, prevention, and punishment of acts involving the
25 laundering of drug-related profits and drug-related monies in

1 that country and a discussion of the adequacy of the legal and
2 law enforcement measures taken and the accomplishments
3 achieved in accordance with these plans.''.

4 **SEC. 3393. CONDITIONS ON ASSISTANCE FOR BOLIVIA.**

5 (a)(1) It is the sense of the Congress that—

6 (A) the Government of Bolivia's recent drug inter-
7 diction operations in cooperation with the United
8 States (Operation Blast Furnace) evinced a determina-
9 tion to combat the growing power of the narcotics
10 trade and narcotics traffickers;

11 (B) the operation has had a dramatic effect on the
12 coca trade in that country by dropping the price of
13 coca below the cost of production;

14 (C) as a result of this operation the coca trade has
15 in the short term been sharply constricted;

16 (D) the restoration of non-coca dependent econom-
17 ic growth in Bolivia is crucial to the achievement of
18 long-term progress in controlling illicit narcotics pro-
19 duction; and

20 (E) control of illicit drug production is crucial to
21 the survival of democratic institutions and democratic
22 government in Bolivia.

23 (2) The Congress, therefore, applauds the demon-
24 strated willingness of the Paz government, despite the
25 risks of severe domestic criticism and disruptive eco-

1 nomic consequences, to cooperate with the United
2 States in Operation Blast Furnace.
3 (b) Section 611(2) of the International Security and De-
4 velopment Cooperation Act of 1985 is amended to read as
5 follows:
6 "(2) For fiscal year 1987—
7 "(A) up to 50 percent of the aggregate
8 amount of such assistance allocated for Bolivia
9 may be provided at any time after the President
10 certifies to the Congress that Bolivia has engaged
11 in narcotics interdiction operations which have
12 significantly disrupted the illicit coca industry in
13 Bolivia or has cooperated with the United States
14 in such operations; and
15 "(B) the remaining amount of such assistance
16 may be provided at any time after the President
17 certifies to the Congress that Bolivia has adopted
18 a plan to eliminate illicit narcotics cultivation,
19 production, and trafficking countrywide, and has
20 entered into an agreement of cooperation with the
21 United States for implementing that plan for 1987
22 and beyond, and is making substantial progress
23 towards the plan's objectives including eradication
24 of illicit coca crops and effective use of United
25 States assistance.".

1 **SEC. 3394. AERIAL AND OTHER SURVEYS FOR ESTIMATING IL-**
2 **LICIT NARCOTICS PRODUCTION OVERSEAS.**

3 (a) In order to enhance the strategic planning of the
4 United States to combat illicit narcotics production and traf-
5 ficking worldwide, the President shall, within 60 days after
6 the date of enactment of this Act, submit to the Committee
7 on Foreign Relations and the Select Committee on Intelli-
8 gence of the Senate and the Committee on Foreign Affairs
9 and the Permanent Select Committee on Intelligence of the
10 House of Representatives a report (on a classified basis if
11 necessary) on a plan for using the funds available to the Cen-
12 tral Intelligence Agency and the Department of Defense to
13 conduct within one year a comprehensive set of aerial and
14 other surveys of every major illicit drug producing country
15 sufficient to establish a highly reliable estimate for each such
16 country of (1) total hectarage of illicit crops under cultivation,
17 (2) harvests and yields of illicit crops, and (3) hectares of
18 illicit crops eradicated.

19 (b) For purposes of this section, the term "major illicit
20 drug producing country" has the same meaning as is given to
21 it by section 481(i)(2) of the Foreign Assistance Act of 1961.

22 **SEC. 3395. MULTILATERAL DEVELOPMENT BANK FUNDS.**

23 The Secretary of the Treasury shall instruct each
24 United States Executive Director or other representative to
25 each multilateral development bank to vote against any loan
26 or other utilization of the funds of the respective bank for the

1 benefit of any major illicit drug producing country, as defined
2 in section 481(i)(2) of the Foreign Assistance Act of 1961,
3 unless the President has certified, not more than six months
4 previously, to the Secretary of the Treasury and the Con-
5 gress that such country has cooperated with the United
6 States in eradicating illicit drug production and interrupting
7 the flow of illicit drugs to the United States.

8 **Subpart C—Drug Education Programs Abroad**

9 **SEC. 3396. INCREASED FUNDING FOR USIA DRUG EDUCATION**
10 **PROGRAMS.**

11 In addition to amounts otherwise authorized to be ap-
12 propriated, there is authorized to be appropriated for the
13 United States Information Agency for fiscal year 1987
14 $2,000,000 which shall be available only for increasing drug
15 education programs abroad. These programs may include—
16 (1) the distribution of films and publications which
17 demonstrate the impact of drugs on crime and health;
18 and
19 (2) exchange of persons, programs and interna-
20 tional visitor programs involving students, educators,
21 and scientists.

22 **SEC. 3397. INCREASED FUNDING FOR AID DRUG EDUCATION**
23 **PROGRAMS.**

24 In addition to amounts otherwise authorized to be ap-
25 propriated, there are authorized to be appropriated to the

1 President for fiscal year 1987 $3,000,000 to carry out chap-
2 ter 1 of part I of the Foreign Assistance Act of 1961, which
3 amount shall be used pursuant to section 126(b)(2) of that
4 Act for additional activities aimed at increasing awareness of
5 the effects of production and trafficking of illicit narcotics on
6 source and transit countries.

7 SEC. 3398. REPORTS TO CONGRESS ON DRUG EDUCATION PRO-
8 GRAMS ABROAD.

9 The Director of the United States Information Agency
10 and the Administrator of the Agency for International Devel-
11 opment shall include in their annual reports to the Congress
12 a description of the drug education programs carried out by
13 their respective agencies.

14 Subtitle J—Anti-Drug Trust Fund

15 SEC. 3401. DESIGNATION OF TAX OVERPAYMENTS AND CON-
16 TRIBUTIONS TO ANTI-DRUG TRUST FUND.

17 (a) Subchapter A of chapter 61 of the Internal Revenue
18 Code of 1954 (relating to returns and records) is amended by
19 adding at the end thereof the following new part:

20 "PART IX—DESIGNATION OF TAX OVERPAY-
21 MENTS AND CONTRIBUTIONS TO ANTI-
22 DRUG TRUST FUND

"Sec. 6097. Designation by individuals.

1 "SEC. 6097. DESIGNATION BY INDIVIDUALS.

2 "(a) IN GENERAL.—With respect to each taxpayer's
3 return for the taxable year of the tax imposed by chapter 1,
4 such taxpayer may designate that—

5 "(1) any amount of an overpayment of such tax
6 for such taxable year, or

7 "(2) in the absence of any overpayment of such
8 tax, any contribution which the taxpayer includes with
9 such return,

10 be paid over to the Anti-Drug Trust Fund.

11 "(b) MANNER AND TIME OF DESIGNATION.—A desig-
12 nation under subsection (a) may be made with respect to any
13 taxable year only at the time of filing the return of the tax
14 imposed by chapter 1 for such taxable year. Such designation
15 shall be made either on the 1st page of the return or on the
16 page bearing the taxpayer's signature.

17 "(c) DESIGNATED AMOUNTS NOT DEDUCTIBLE.—No
18 amount designated pursuant to subsection (a) shall be allowed
19 as a deduction under section 170 or any other section for any
20 taxable year.

21 "(d) OVERPAYMENTS TREATED AS REFUNDED.—For
22 purposes of this title, any overpayment of tax designated
23 under subsection (a) shall be treated as being refunded to the
24 taxpayer as of the last date prescribed for filing the return of
25 tax imposed by chapter 1 (determined without regard to ex-
26 tensions) or, if late, the date the return is filed.".

1 (b) Subchapter A of chapter 98 of the Internal Revenue
2 Code of 1954 (relating to Trust Fund Code) is amended by
3 adding at the end thereof the following new section:

4 **"SEC. 9505. ANTI-DRUG TRUST FUND.**

5 "(a) CREATION OF TRUST FUND.—There is established
6 in the Treasury of the United States a trust fund to be known
7 as the 'Anti-Drug Trust Fund', consisting of such amounts as
8 may be appropriated or credited to the Anti-Drug Trust Fund
9 as provided in this section and section 9602(b) (relating to
10 crediting of interest, etc.).

11 "(b) TRANSFERS TO ANTI-DRUG TRUST FUND.—
12 There are hereby appropriated to the Drug Addiction Pre-
13 vention Trust Fund amounts equivalent to the amounts des-
14 ignated under section 6097 and received in the Treasury.

15 "(c) EXPENDITURES FROM TRUST FUND.—Amounts
16 in the Anti-Drug Trust Fund shall be available as provided
17 by appropriation Acts, for making expenditures to carry out
18 the purposes of the Drug Enforcement Act of 1986.".

19 (c)(1) The table of parts for subchapter A of chapter 61
20 of the Internal Revenue Code of 1954 is amended by adding
21 at the end thereof the following new item:

"PART IX. Designation of overpayments and contributions for Anti-Drug Trust Fund.".

22 (2) The table of sections for subchapter A of chapter 98
23 of such Code is amended by adding at the end thereof the
24 following new item:

"Sec. 9505. Anti-Drug Trust Fund.".

1 (d) The amendments made by this section shall take
2 effect on January 1, 1987.

3 **Subtitle K—Freedom of Information Act**

4 **SEC. 3451. LAW ENFORCEMENT.**

5 (a) Section 552(b)(7) of title 5, United States Code, is
6 amended to read as follows:

7 "(7) records or information compiled for law en-
8 forcement purposes, but only to the extent that the
9 production of such law enforcement records or informa-
10 tion (A) could reasonably be expected to interfere with
11 enforcement proceedings, (B) would deprive a person of
12 a right to a fair trial or an impartial adjudication, (C)
13 could reasonably be expected to constitute an unwar-
14 ranted invasion of personal privacy, (D) could reason-
15 ably be expected to disclose the identity of a confiden-
16 tial source, including a State, local, or foreign agency
17 or authority or any private institution which furnished
18 information on a confidential basis, and, in the case of
19 a record or information compiled by criminal law en-
20 forcement authority in the course of a criminal investi-
21 gation or by an agency conducting a lawful national
22 security intelligence investigation, information furnished
23 by a confidential source, (E) would disclose techniques
24 and procedures for law enforcement investigations or
25 prosecutions, or would disclose guidelines for law en-

1 forcement investigations or prosecutions if such disclo-
2 sure could reasonably be expected to risk circumven-
3 tion of the law, or (F) could reasonably be expected to
4 endanger the life or physical safety of any natural
5 person;".

6 (b) Section 552(a) of title 5, United States Code, is
7 amended by adding after paragraph (6) thereof the following
8 new paragraph:

9 "(7) Nothing in this section shall be deemed applicable
10 in any way to the informant records maintained by a law
11 enforcement agency under an informant's name or personal
12 identifier, whenever access to such records is sought by a
13 third party according to the informant's name or personal
14 identifier.".

15 **SEC. 3452. ORGANIZED CRIME.**

16 Section 552 of title 5, United States Code, is amended
17 by redesignating subsections (c), (d), and (e) as subsections
18 (d), (e), and (f), respectively, and by inserting after subsection
19 (b) the following new subsection:

20 "(c) Nothing in this section shall be deemed applicable
21 to documents compiled in any lawful investigation of orga-
22 nized crime, designated by the Attorney General for the pur-
23 poses of this subsection and conducted by a criminal law en-
24 forcement authority for law enforcement purposes, if the re-
25 quested document was first generated or acquired by such

1 law enforcement authority within five years of the date of the
2 request, except where the agency determines pursuant to
3 regulations promulgated by the Attorney General that there
4 is an overriding public interest in earlier disclosure or in
5 longer exclusion not to exceed three years. Notwithstanding
6 any other provision of law, no document described in the pre-
7 ceding sentence may be destroyed or otherwise disposed of
8 until the document is available for disclosure in accordance
9 with subsections (a) and (b) of this section for a period of not
10 less than ten years.".

11 **Subtitle L—National Forest System Drug Control**

12 **SEC. 3501. REPEAL OF LIMITED ARREST AUTHORITY.**

13 That part of the first paragraph of the subsection desig-
14 nated "General Expenses, Forest Service" under the head-
15 ing "FOREST SERVICE" in the Act of March 3, 1905 (33
16 Stat. 861, 873 as amended; 16 U.S.C. 559), relating to
17 arrest authority relative to the National Forests, is hereby
18 repealed.

19 **SEC. 3502. AUTHORIZATION OF GENERAL ARREST AUTHORITY.**

20 (a) Officers and employees of the Forest Service of the
21 Department of Agriculture shall have authority both within
22 and outside the boundaries of the National Forest System—
23 (1) to conduct investigations of violations of the
24 laws and regulations relating to the National Forest
25 System; and

1 (2) to make arrests for violations of the laws and
2 regulations relating to the National Forest System that
3 are committed on or that threaten National Forest
4 System lands.
5 (b) In exercising the investigative authority provided by
6 subsection (a), the Forest Service shall cooperate with any
7 other Federal law enforcement agency having primary inves-
8 tigative jurisdiction over the offense committed.
9 **SEC. 3503. FIREARMS AUTHORITY.**
10 (a) The Secretary of Agriculture (in this Act referred to
11 as the "Secretary") is authorized to designate officers and
12 employees of the Forest Service, when engaged in the per-
13 formance of their duties—
14 (1) to carry firearms;
15 (2) to serve warrants and other process issued by
16 a court or officer of competent jurisdiction for the en-
17 forcement of the laws and regulations relating to the
18 National Forest System;
19 (3) to search any person, place, or conveyance ac-
20 cording to Federal law or rule of law; and
21 (4) to seize any evidentiary item as provided for
22 by Federal law.
23 (b) The Secretary is authorized to designate employees
24 of other Federal agencies to assist the Forest Service in car-
25 rying out the Secretary's law enforcement responsibilities in

1 connection with the administration and regulation of the use
2 and occupancy of the National Forest System. Such designat-
3 ed employees shall have the law enforcement authorities pro-
4 vided to officers and employees of the Forest Service by this
5 subtitle.

6 **SEC. 3504. ENFORCEMENT OF CONTROLLED SUBSTANCES ACT.**

7 (a) The Secretary is authorized to designate officers and
8 employees of the Forest Service to investigate and enforce,
9 both within and outside the boundaries of the National Forest
10 System in connection with the administration and occupancy
11 of the National Forest System, section 401 of the Controlled
12 Substances Act (84 Stat. 1242, 1260, as amended; 21
13 U.S.C. 841).

14 (b) In connection with the administration and regulation
15 of the use and occupancy of the National Forest System, the
16 Secretary may authorize the Forest Service to cooperate
17 with the law enforcement officials of any Federal agency,
18 State, or political subdivision in the investigation and en-
19 forcement of section 401 of the Controlled Substances Act
20 (84 Stat. 1242, 1260, as amended; 21 U.S.C. 841) and State
21 drug control laws or ordinances both within and outside the
22 boundaries of the National Forest System.

1 **SEC. 3505. AMENDMENT TO THE CONTROLLED SUBSTANCES**
2 **ACT.**

3 Section 401 of the Controlled Substances Act (21
4 U.S.C. 841(b)) is amended by adding at the end thereof the
5 following subsection:

6 "(e)(1) Any person found to be in possession of a firearm
7 while manufacturing a controlled substance on Federal prop-
8 erty shall be sentenced to a term of imprisonment for not
9 more than five years and shall be fined not more than
10 $5,000. If any person commits such a violation after one or
11 more prior convictions for an offense punishable under this
12 subsection such person shall be sentenced to a term of impris-
13 onment of not more than ten years and shall be fined not
14 more than $10,000, or both.

15 "(2) Any person who assembles, maintains, places, or
16 causes to be placed a boobytrap on Federal property where a
17 controlled substance is being manufactured shall be sentenced
18 to a term of imprisonment for not more than ten years, and
19 shall be fined not more than $10,000. If any person commits
20 such a violation after one or more prior convictions for an
21 offense punishable under this subsection such person shall be
22 sentenced to a term of imprisonment of not more than twenty
23 years and shall be fined not more than $20,000. For purposes
24 of this subsection, 'boobytrap' means any concealed or cam-
25 ouflaged device designed to cause bodily injury when trig-
26 gered by an action of any unsuspecting person making con-

1 tact with the device. Boobytraps include guns, ammunition,
2 or explosive devices attached to trip wires or other triggering
3 mechanisms, sharpened stakes, and lines or wire with hooks
4 attached.".

5 **SEC. 3506. AUTHORIZATION OF APPROPRIATIONS.**

6 There is hereby authorized to be appropriated not to
7 exceed $20,000,000 for each fiscal year to carry out the pro-
8 visions of section 3504 of this subtitle. Notwithstanding any
9 other provision of law and to the extent the sum authorized
10 for each fiscal year by the preceding sentence is not appropri-
11 ated, the Secretary of Agriculture is authorized to fund ac-
12 tivities under section 3504 of this subtitle by using moneys
13 received from the sale of products from or for the use of
14 National Forest System lands which moneys shall be avail-
15 able without further appropriation.

16 Subtitle M—Authorization of Appropriations for
17 Drug Law Enforcement

18 **SEC. 3600. AUTHORIZATION OF APPROPRIATIONS.**

19 (a) There is authorized to be appropriated for fiscal year
20 1987 for the Department of Justice for the Drug Enforce-
21 ment Administration, $427,000,000 of which $15,000,000
22 shall be for an All Source Intelligence Center; except, that
23 notwithstanding section 1345 of title 31, United States Code,
24 funds made available to the Department of Justice for the
25 Drug Enforcement Administration in any fiscal year may be

1 used for travel, transportation, and subsistence expense of
2 State, county, and local officers attending conferences, meet-
3 ings, and training courses at the FBI Academy, Quantico,
4 Virginia.

5 (b) There is authorized to be appropriated for fiscal year
6 1987 for the Department of Justice for the Federal Prison
7 System, $805,807,000 of which $179,000,000 shall be for
8 the construction of Federal penal and correctional
9 institutions.

10 (c) There is authorized to be appropriated for fiscal year
11 1987 for the Judiciary for Defender Services, $88,000,000.

12 (d) There is authorized to be appropriated for fiscal year
13 1987 for the Judiciary for Fees and Expenses of Jurors and
14 Commissioners, $54,500,000.

15 (e) There is authorized to be appropriated for fiscal year
16 1987 for the Department of Justice for the Office of Justice
17 Assistance, $2,000,000 to carry out a pilot prison capacity
18 program.

19 Subtitle N—Controlled Substances Production
20 Control

21 **SEC. 3651. CONTROLLED SUBSTANCES PRODUCTION CONTROL.**

22 Section 1764 of the Food Security Act of 1985 (21
23 U.S.C. 881a) is amended—

1 (1) in subsection (b), by striking out "four" each
2 place it appears in paragraphs (1) and (2)(A) and in-
3 serting in lieu thereof "nine";
4 (2) by redesignating subsection (c) as subsection
5 (d); and
6 (3) by inserting after subsection (b) the following
7 new subsection:
8 "(c)(1) The Secretary shall pay a reward, in such
9 amount as the Secretary shall determine, for information
10 leading to the conviction of any person—
11 "(A) who receives a program benefit described in
12 subsection (b); and
13 "(B) who is subsequently determined to be ineligi-
14 ble for the benefit as the result of the conviction.
15 "(2) The reward shall be paid out of funds not expended
16 as the result of the ineligibility of the person for the program
17 benefit under this section.".

18 **Subtitle O—State and Local Narcotics Control**
19 **Assistance**

20 **SEC. 3701. SHORT TITLE.**
21 This subtitle may be cited as the "State and Local Law
22 Enforcement Assistance Act of 1986".

1 **SEC. 3702. OFFICE OF JUSTICE ASSISTANCE DRUG GRANT**
2 **PROGRAM.**

3 (a) Title I of the Omnibus Crime Control and Safe
4 Streets Act of 1968 (42 U.S.C. 3712 et seq.) is amended—
5 (1) by redesignating part M as part N,
6 (2) by redesignating section 1301 as section 1401,
7 and
8 (3) by inserting after part L the following new
9 part:

10 "PART M—GRANTS FOR DRUG LAW ENFORCEMENT
11 PROGRAMS

12 "FUNCTION OF THE ATTORNEY GENERAL

13 "SEC. 1301. The Attorney General shall provide funds
14 to eligible States and units of local government pursuant to
15 this part.

16 "DESCRIPTION OF DRUG LAW ENFORCEMENT GRANT
17 PROGRAM

18 "SEC. 1302. The Attorney General is authorized to
19 make grants under this part to States for the purpose of en-
20 forcing State and local laws that establish offenses similar to
21 offenses established in the Controlled Substances Act
22 (21 U.S.C. 801 et seq.), and to—
23 "(1) provide additional personnel, equipment, fa-
24 cilities, personnel training, and supplies for more wide-
25 spread apprehension of persons who violate State laws
26 relating to the production, possession, and transfer of

1 controlled substances and to pay operating expenses
2 (including the purchase of evidence and information) in-
3 curred as a result of apprehending such persons,
4 "(2) provide additional personnel, equipment, fa-
5 cilities (including upgraded and additional law enforce-
6 ment crime labs), personnel training, and supplies for
7 more widespread prosecution of persons accused of vio-
8 lating such State laws and to pay operating expenses
9 in connection with such prosecution,
10 "(3) provide additional personnel (including
11 judges), equipment, personnel training, and supplies for
12 more widespread adjudication of cases involving per-
13 sons accused of violating such State laws, to pay oper-
14 ating expenses in connection with such adjudication,
15 and to provide quickly temporary facilities in which to
16 conduct adjudications of such cases,
17 "(4) provide additional correctional facilities (in-
18 cluding the expansion of existing prisons) for the deten-
19 tion of persons convicted of violating State laws relat-
20 ing to the production, possession, or transfer of con-
21 trolled substances, and to establish and improve treat-
22 ment and rehabilitative counseling provided to drug de-
23 pendent persons convicted of violating State laws, and

1 "(5) conduct programs of eradication aimed at de-
2 stroying wild or illicit growth of plant species from
3 which controlled substances may be extracted.

4 "APPLICATIONS TO RECEIVE GRANTS

5 "SEC. 1303. (a) To request a grant under section 1302,
6 the chief executive officer of a State shall submit to the At-
7 torney General an application at such time and in such form
8 as the Attorney General may require. Such application shall
9 include a statewide strategy for the enforcement of State
10 laws relating to the production, possession, and transfer of
11 controlled substances. Such strategy shall be prepared after
12 consultation with State and local officials whose duty it is to
13 enforce such laws. Such strategy shall include an assurance
14 that following the first fiscal year covered by an application
15 and each fiscal year thereafter, the applicant shall submit to
16 the Bureau or to the State, as the case may be, a perform-
17 ance report concerning the activities carried out pursuant to
18 section 1302 of this title.

19 "(b) Applications for a grant under this section shall in-
20 clude a certification that the State will expend from its own
21 funds for the purposes for which the grant is made an amount
22 equal to the amount of the grant.

23 "REPORTS

24 "SEC. 1304. (a) Each State which receives a grant
25 under section 1302 shall submit to the Attorney General, for

1 each year in which any part of such grant is expended by a
2 State or local government entity, a report which contains—
3 "(1) a summary of the activities carried out with
4 such grant and an assessment of the impact of such ac-
5 tivities on meeting the needs identified in the State
6 strategy submitted under section 1303, and
7 "(2) such other information as the Attorney Gen-
8 eral may require by rule.
9 Such report shall be submitted in such form and by such time
10 as the Attorney General may require by rule.
11 "(b) Not later than ninety days after the end of each
12 fiscal year for which grants are made under section 1302, the
13 Attorney General shall submit to the Speaker of the House of
14 Representatives and the President pro tempore of the Senate
15 a report that includes with respect to each State—
16 "(1) the aggregate amount of such grants made to
17 such State for such fiscal year,
18 "(2) the amount of such grants expended for each
19 of the five general purposes specified in section 1302,
20 and
21 "(3) a summary of the information provided in
22 compliance with subsection (a)(1).
23 "EXPENDITURE OF GRANTS; RECORDS
24 "SEC. 1305. (a) If any part of a grant made under sec-
25 tion 1302 is used for any purpose other than the purpose for
26 which such part is received by a State, or by a State or local

1 government entity, then the State which received such grant
2 shall promptly repay to the Attorney General an amount
3 equal to such part.

4 "(b)(1) Each State which receives a grant under section
5 1302 shall keep, and shall require units of local government
6 which receive any part of such grant to keep, such records as
7 the Attorney General may require by rule to facilitate an
8 effective audit.

9 "(2) The Attorney General and the Comptroller General
10 of the United States shall have access, for the purpose of
11 audit and examination, to any books, documents, and records
12 of States which receive grants, and of State and local govern-
13 ment entities which receive any part of a grant, made under
14 section 1302 if, in the opinion of the Attorney General or the
15 Comptroller General, such books, documents, and records are
16 related to the receipt or use of any such grant.

17 "STATE OFFICE

18 "SEC. 1306. (a) The chief executive of each participat-
19 ing State shall designate a State office for purposes of—

20 "(1) preparing an application to obtain funds
21 under section 1302 of this title; and

22 "(2) administering funds received under such sec-
23 tion from the Bureau, including receipt, review, proc-
24 essing, monitoring, progress and financial report
25 review, technical assistance, grant adjustments, ac-
26 counting, auditing, and fund disbursements.

1 "(b) An office or agency performing other functions
2 within the executive branch of a State may be designated to
3 carry out the functions specified in subsection (a).".
4 (b)(1) Subsections (a) and (b) of section 401 of title I of
5 the Omnibus Crime Control and Safe Streets Act of 1968 (42
6 U.S.C. 3741) are each amended by striking out "part E" and
7 inserting in lieu thereof "parts E and M".
8 (2) Section 801(b) of title I of the Omnibus Crime Con-
9 trol and Safe Streets Act of 1968 (42 U.S.C. 3782(b)) is
10 amended—
11 (A) by striking out "parts D and E" and inserting
12 in lieu thereof "parts D, E, and M", and
13 (B) by striking out "part D" each place it appears
14 and inserting in lieu thereof "parts D and M".
15 (3) Section 802(b) of title I of the Omnibus Crime Con-
16 trol and Safe Streets Act of 1968 (42 U.S.C. 3783(b)) is
17 amended by inserting "or M" after "part D".
18 (4) Section 808 of title I of the Omnibus Crime Control
19 and Safe Streets Act of 1968 (42 U.S.C. 3789) is amended
20 by inserting "or 1306, as the case may be," after "section
21 408".
22 (5) The table of contents of title I of the Omnibus Crime
23 Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et
24 seq.) is amended by striking out the items relating to part M

1 and section 1301, and inserting in lieu thereof the following
2 new items:

"PART M—GRANTS FOR DRUG LAW ENFORCEMENT PROGRAMS

"Sec. 1301. Function of the Attorney General.
"Sec. 1302. Description of drug law enforcement grant program.
"Sec. 1303. Applications to receive grants.
"Sec. 1304. Reports.
"Sec. 1305. Expenditure of grants; records.
"Sec. 1306. State office.

"PART N—TRANSITION—EFFECTIVE DATE—REPEALER

"Sec. 1401. Continuation of rules, authorities, and proceedings.".

3 (c) Section 1001 of title I of the Omnibus Crime Control
4 and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended—
5 (1) in subsection (a)—
6 (A) in paragraph (3) by striking out "and L"
7 and inserting in lieu thereof "L, and M",
8 (B) by redesignating paragraph (6) as para-
9 graph (7), and
10 (C) by inserting after paragraph (5) the fol-
11 lowing new paragraph:
12 "(6) There are authorized to be appropriated
13 $100,000,000 for fiscal year 1987, $100,000,000 for fiscal
14 year 1988, and $100,000,000 for fiscal year 1989, to carry
15 out the programs under part M of this title.", and
16 (2) in subsection (b) by striking out "and E" and
17 inserting in lieu thereof ", E, and M".

Subtitle P—Study on the Use of Existing Federal Buildings as Prisons

SEC. 3751. STUDY REQUIRED.

(a) The Administrator of General Services and the Secretary of Defense shall jointly conduct a study to identify any building owned or operated by the United States which could be used, or modified for use, as a prison by the Federal Bureau of Prisons.

(b) Within 180 days after the date of enactment of this Act, the Administrator of General Services and the Secretary of Defense shall transmit to the President and the Congress a report on the study conducted pursuant to subsection (a).

Subtitle Q—Drug Law Enforcement Cooperation Study

SEC. 3801. DRUG LAW ENFORCEMENT COOPERATION STUDY.

(a) The National Drug Enforcement Policy Board, in consultation with the National Narcotics Border Inderdiction System and State and local law enforcement officials, shall study Federal drug law enforcement efforts and make recommendations as provided in subsection (b). The Board shall report to Congress within 180 days of enactment of this subtitle on its findings and conclusions.

(b) The report of the Board shall include recommendations on—

1 (1) the means of improving the Nation's drug
2 interdiction programs;
3 (2) the relative effectiveness and efficiency of vari-
4 ous law enforcement strategies, including interdiction;
5 (3) ways to maximize coordination and coopera-
6 tion among Federal, State, local drug law enforcement
7 agencies; and
8 (4) ways to maximize coordination and coopera-
9 tion between the several Federal agencies involved
10 with drug interdiction, along with a recommendation
11 on the transfer of mission from one agency to another.

12 **Subtitle R—Drug Interdiction**

13 **SEC. 3851. EMERGENCY ASSISTANCE BY DEPARTMENT OF DE-**
14 **FENSE PERSONNEL.**

15 Subsection (c) of section 374 of title 10, United States
16 Code, is amended to read as follows:
17 "(c)(1) In an emergency circumstance, equipment oper-
18 ated by or with the assistance of personnel assigned under
19 subsection (a) may be used as a base of operations outside the
20 land area of the United States (or any territory or possession
21 of the United States) by Federal law enforcement officials—
22 "(A) to facilitate the enforcement of a law listed
23 in subsection (a); and
24 "(B) to transport such law enforcement officials in
25 connection with such operations, including to transport

1 such officials into the land area of the United States
2 (or any territory or possession of the United States) in
3 cases involving the hot pursuit of vessels or aircraft
4 when such pursuit began outside such land area,
5 if the Secretary of Defense and the Attorney General jointly
6 determine that an emergency circumstance exists.
7 "(2)(A) Subject to subparagraph (B), equipment operat-
8 ed by or with the assistance of personnel assigned under sub-
9 section (a) may not be used to interdict or interrupt the pas-
10 sage of vessels and aircraft.
11 "(B) In an emergency circumstance, equipment operat-
12 ed by or with the assistance of personnel assigned under sub-
13 section (a) may be used to intercept vessels and aircraft out-
14 side the land area of the United States (or any territory or
15 possession of the United States) for the purpose of—
16 "(i) identifying such vessels and aircraft; and
17 "(ii) monitoring and communicating the location
18 and movement of such vessels and aircraft until Feder-
19 al, State, and local law enforcement officials can
20 assume such responsibilities,
21 if the Secretary of Defense and the Attorney General jointly
22 determine that an emergency circumstance exists and that
23 enforcement of a law listed in subsection (a) would be seri-
24 ously impaired if such use of equipment were not permitted.

1 "(3) For purposes of this subsection, an emergency cir-
2 cumstance exists when—
3 "(A) the size or scope of the suspected criminal
4 activity in a given situation poses a serious threat to
5 the interests of the United States; and
6 "(B) the assistance described in this subsection
7 would significantly enhance the enforcement of a law
8 listed in subsection (a).".

9 **SEC. 3852. BORDER INTERDICTION AUTHORIZATION.**

10 There is authorized to be appropriated for fiscal year
11 1987 for the Customs Service, the Attorney General, the
12 Coast Guard, and such other agencies as determined by the
13 National Drug Enforcement Policy Board $273,000,000 for
14 use to interdict illegal drugs along the southern border of the
15 United States.

16 Subtitle S—Arrest Authority for INS Officers

17 **SEC. 3901. ARREST AUTHORITY FOR INS OFFICERS.**

18 (a) Title II of the Immigration and Nationality Act is
19 amended by adding at the end thereof the following new
20 section:

21 "GENERAL ARREST AUTHORITY

22 "SEC. 294. Any officer of the Service as the Attorney
23 General shall designate may—
24 "(1) carry a firearm;

1 "(2) execute and serve any order, warrant, sub-
2 poena, summons, or other process issued under the au-
3 thority of the United States;
4 "(3) make an arrest without a warrant for any of-
5 fense against the United States committed in the offi-
6 cer's presence or for a felony, cognizable under the
7 laws of the United States committed outside the offi-
8 cer's presence if the officer has reasonable grounds to
9 believe that the person to be arrested has committed or
10 is committing a felony; and
11 "(4) perform any other law enforcement duty that
12 the Attorney General may designate.".
13 (b) The table of contents of such Act is amended by
14 inserting after the item relating to section 293 the following
15 new item:

"Sec. 294. General arrest authority.".

16 **Subtitle T—Improved Drug Crime Reporting**

17 **SEC. 3951. IMPROVED DRUG CRIME REPORTING.**

18 (a) The Congress—
19 (1) finds that—
20 (A) the Bureau of Justice Statistics currently
21 conducts one of the largest public opinion survey
22 programs in the world, the National Crime
23 Survey;
24 (B) this survey, conducted by the Census
25 Bureau, involves detailed field surveys of 60,000

1 households and more than 100,000 individuals
2 who are interviewed twice a year to measure the
3 amount of crime actually occurring (crime victim-
4 ization), as opposed to that reported to police
5 through the uniform crime reporting system;
6 (C) currently the National Crime Report
7 does not gather data involving drug abuse or
8 victimization;
9 (D) further, the Bureau of Justice Statistics
10 does not act as a clearinghouse for the gathering
11 of data generated by Federal, State, local enforce-
12 ment and together criminal justice agencies on
13 their drug enforcement activities; and
14 (E) to obtain a comprehensive understanding
15 of the dimensions of our crime problems and en-
16 forcement activities, one must sift through the
17 annual reports of numerous agencies; and
18 (2) based on findings in paragraph (1) the purpose
19 of this Act is to create a comprehensive and timely
20 data base of the dynamics of the drug crisis.
21 (b)(1) The Bureau of Justice Statistics, in cooperation
22 with the Federal Bureau of Investigation and other Federal
23 enforcement agencies as well as other Federal, State, and
24 local statistics gathering groups, shall compile and publish
25 comprehensive data on drug trafficking and abuse.

1 (2) For purposes of carrying out the provisions of para-
2 graph (1), the authorization for the Bureau of Justice Statis-
3 tics for fiscal year 1987 is increased by $3,000,000.

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Calendar No. 983

99TH CONGRESS
2D SESSION

S. 2850

A BILL

To strengthen and improve the enforcement of the laws against illegal drugs, and for other purposes.

SEPTEMBER 24, 1986

Read the second time and placed on the calendar